

108TH CONGRESS
1ST SESSION

H. R. 1531

To amend the Internal Revenue Code of 1986 to enhance energy conservation and to provide for reliability and diversity in the energy supply for the American people, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

APRIL 1, 2003

Mr. McCRERY introduced the following bill; which was referred to the Committee on Ways and Means

A BILL

To amend the Internal Revenue Code of 1986 to enhance energy conservation and to provide for reliability and diversity in the energy supply for the American people, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 (a) SHORT TITLE.—This Act may be cited as the
5 “Energy Tax Policy Act of 2003”.

6 (b) AMENDMENT OF 1986 CODE.—Except as other-
7 wise expressly provided, whenever in this Act an amend-
8 ment or repeal is expressed in terms of an amendment

1 to, or repeal of, a section or other provision, the reference
 2 shall be considered to be made to a section or other provi-
 3 sion of the Internal Revenue Code of 1986.

4 (c) TABLE OF CONTENTS.—

Sec. 1. Short title.

TITLE I—CONSERVATION

- Sec. 101. Credit for residential solar energy property.
- Sec. 102. Extension and expansion of credit for electricity produced from renewable resources.
- Sec. 103. Credit for qualified fuel cell power plants.
- Sec. 104. Credit for energy efficiency improvements to existing homes.
- Sec. 105. Business credit for construction of new energy efficient home.
- Sec. 106. Energy credit for combined heat and power system property.
- Sec. 107. New nonrefundable personal credits allowed against regular and minimum taxes.
- Sec. 108. Repeal of 4.3-cent motor fuel excise taxes on railroads and inland waterway transportation which remain in general fund.
- Sec. 109. Reduced motor fuel excise tax on certain mixtures of diesel fuel.
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TITLE II—RELIABILITY

- Sec. 201. Natural gas gathering lines treated as 7-year property.
- Sec. 202. Natural gas distribution lines treated as 15-year property.
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- Sec. 204. Expensing of capital costs incurred in complying with environmental protection agency sulfur regulations.
- Sec. 205. Credit for production of low sulphur diesel fuel.
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- Sec. 207. Sales or dispositions to implement Federal energy regulatory commission or State electric restructuring policy.
- Sec. 208. Modifications to special rules for nuclear decommissioning costs.
- Sec. 209. Treatment of certain income of cooperatives.
- Sec. 210. Arbitrage rules not to apply to prepayments for natural gas.
- Sec. 211. Prepayment of premium liability for coal industry health benefits.

TITLE III—PRODUCTION

- Sec. 301. Oil and gas from marginal wells.
- Sec. 302. Temporary suspension of limitation based on 65 percent of taxable income and extension of suspension of taxable income limit with respect to marginal production.
- Sec. 303. Amortization of delay rental payments.
- Sec. 304. Amortization of geological and geophysical expenditures.
- Sec. 305. Extension and modification of credit for producing fuel from a non-conventional source.
- Sec. 306. Business related energy credits allowed against regular and minimum tax.

Sec. 307. Temporary repeal of alternative minimum tax preference for intangible drilling costs.

Sec. 308. Allowance of enhanced recovery credit against the alternative minimum tax.

TITLE I—CONSERVATION

SEC. 101. CREDIT FOR RESIDENTIAL SOLAR ENERGY PROPERTY.

(a) IN GENERAL.—Subpart A of part IV of subchapter A of chapter 1 (relating to nonrefundable personal credits) is amended by inserting after section 25B the following new section:

“SEC. 25C. RESIDENTIAL SOLAR ENERGY PROPERTY.

“(a) ALLOWANCE OF CREDIT.—In the case of an individual, there shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to the sum of—

“(1) 15 percent of the qualified photovoltaic property expenditures made by the taxpayer during such year, and

“(2) 15 percent of the qualified solar water heating property expenditures made by the taxpayer during the taxable year.

“(b) LIMITATIONS.—

“(1) MAXIMUM CREDIT.—The credit allowed under subsection (a) shall not exceed—

“(A) \$2,000 for each system of property described in subsection (c)(1), and

1 “(B) \$2,000 for each system of property
2 described in subsection (c)(2).

3 “(2) SAFETY CERTIFICATIONS.—No credit shall
4 be allowed under this section for an item of property
5 unless—

6 “(A) in the case of solar water heating
7 equipment, such equipment is certified for per-
8 formance and safety by the non-profit Solar
9 Rating Certification Corporation or a com-
10 parable entity endorsed by the government of
11 the State in which such property is installed,
12 and

13 “(B) in the case of a photovoltaic system,
14 such system meets appropriate fire and electric
15 code requirements.

16 “(c) DEFINITIONS.—For purposes of this section—

17 “(1) QUALIFIED SOLAR WATER HEATING PROP-
18 ERTY EXPENDITURE.—The term ‘qualified solar
19 water heating property expenditure’ means an ex-
20 penditure for property to heat water for use in a
21 dwelling unit located in the United States and used
22 as a residence if at least half of the energy used by
23 such property for such purpose is derived from the
24 sun.

1 “(2) QUALIFIED PHOTOVOLTAIC PROPERTY EX-
2 PENDITURE.—The term ‘qualified photovoltaic prop-
3 erty expenditure’ means an expenditure for property
4 that uses solar energy to generate electricity for use
5 in a dwelling unit.

6 “(3) SOLAR PANELS.—No expenditure relating
7 to a solar panel or other property installed as a roof
8 (or portion thereof) shall fail to be treated as prop-
9 erty described in paragraph (1) or (2) solely because
10 it constitutes a structural component of the struc-
11 ture on which it is installed.

12 “(4) LABOR COSTS.—Expenditures for labor
13 costs properly allocable to the onsite preparation, as-
14 sembly, or original installation of the property de-
15 scribed in paragraph (1) or (2) and for piping or
16 wiring to interconnect such property to the dwelling
17 unit shall be taken into account for purposes of this
18 section.

19 “(5) SWIMMING POOLS, ETC., USED AS STOR-
20 AGE MEDIUM.—Expenditures which are properly al-
21 locable to a swimming pool, hot tub, or any other
22 energy storage medium which has a function other
23 than the function of such storage shall not be taken
24 into account for purposes of this section.

25 “(d) SPECIAL RULES.—

1 “(1) DOLLAR AMOUNTS IN CASE OF JOINT OC-
2 CUPANCY.—In the case of any dwelling unit which is
3 jointly occupied and used during any calendar year
4 as a residence by 2 or more individuals the following
5 shall apply:

6 “(A) The amount of the credit allowable
7 under subsection (a) by reason of expenditures
8 (as the case may be) made during such cal-
9 endar year by any of such individuals with re-
10 spect to such dwelling unit shall be determined
11 by treating all of such individuals as 1 taxpayer
12 whose taxable year is such calendar year.

13 “(B) There shall be allowable with respect
14 to such expenditures to each of such individ-
15 uals, a credit under subsection (a) for the tax-
16 able year in which such calendar year ends in
17 an amount which bears the same ratio to the
18 amount determined under subparagraph (A) as
19 the amount of such expenditures made by such
20 individual during such calendar year bears to
21 the aggregate of such expenditures made by all
22 of such individuals during such calendar year.

23 “(2) TENANT-STOCKHOLDER IN COOPERATIVE
24 HOUSING CORPORATION.—In the case of an indi-
25 vidual who is a tenant-stockholder (as defined in sec-

tion 216) in a cooperative housing corporation (as defined in such section), such individual shall be treated as having made his tenant-stockholder's proportionate share (as defined in section 216(b)(3)) of any expenditures of such corporation.

“(3) CONDOMINIUMS.—

“(A) IN GENERAL.—In the case of an individual who is a member of a condominium management association with respect to a condominium which he owns, such individual shall be treated as having made his proportionate share of any expenditures of such association.

“(B) CONDOMINIUM MANAGEMENT ASSOCIATION.—For purposes of this paragraph, the term ‘condominium management association’ means an organization which meets the requirements of paragraph (1) of section 528(c) (other than subparagraph (E) thereof) with respect to a condominium project substantially all of the units of which are used as residences.

“(4) ALLOCATION IN CERTAIN CASES.—If less than 80 percent of the use of an item is for nonbusiness purposes, only that portion of the expenditures for such item which is properly allocable to use for nonbusiness purposes shall be taken into account.

1 “(5) WHEN EXPENDITURE MADE; AMOUNT OF
2 EXPENDITURE.—

3 “(A) IN GENERAL.—Except as provided in
4 subparagraph (B), an expenditure with respect
5 to an item shall be treated as made when the
6 original installation of the item is completed.

7 “(B) EXPENDITURES PART OF BUILDING
8 CONSTRUCTION.—In the case of an expenditure
9 in connection with the construction or recon-
10 struction of a structure, such expenditure shall
11 be treated as made when the original use of the
12 constructed or reconstructed structure by the
13 taxpayer begins.

14 “(C) AMOUNT.—The amount of any ex-
15 penditure shall be the cost thereof.

16 “(6) PROPERTY FINANCED BY SUBSIDIZED EN-
17 ERGY FINANCING.—For purposes of determining the
18 amount of expenditures made by any individual with
19 respect to any dwelling unit, there shall not be taken
20 in to account expenditures which are made from
21 subsidized energy financing (as defined in section
22 48(a)(4)(A)).

23 “(e) BASIS ADJUSTMENTS.—For purposes of this
24 subtitle, if a credit is allowed under this section for any
25 expenditure with respect to any property, the increase in

1 the basis of such property which would (but for this sub-
 2 section) result from such expenditure shall be reduced by
 3 the amount of the credit so allowed.

4 “(f) TERMINATION.—The credit allowed under this
 5 section shall not apply to taxable years beginning after
 6 December 31, 2006 (December 31, 2008, with respect to
 7 qualified photovoltaic property expenditures).”.

8 (b) CONFORMING AMENDMENTS.—

9 (1) Subsection (a) of section 1016 is amended
 10 by striking “and” at the end of paragraph (27), by
 11 striking the period at the end of paragraph (28) and
 12 inserting “, and”, and by adding at the end the fol-
 13 lowing new paragraph:

14 “(29) to the extent provided in section 25C(e),
 15 in the case of amounts with respect to which a credit
 16 has been allowed under section 25C.”.

17 (2) The table of sections for subpart A of part
 18 IV of subchapter A of chapter 1 is amended by in-
 19 serting after the item relating to section 25B the fol-
 20 lowing new item:

“Sec. 25C. Residential solar energy property.”.

21 (c) EFFECTIVE DATE.—The amendments made by
 22 this section shall apply to taxable years ending after De-
 23 cember 31, 2003.

1 **SEC. 102. EXTENSION AND EXPANSION OF CREDIT FOR**
2 **ELECTRICITY PRODUCED FROM RENEWABLE**
3 **RESOURCES.**

4 (a) EXTENSION OF CREDIT FOR WIND AND CLOSED-
5 LOOP BIOMASS FACILITIES.—Subparagraphs (A) and (B)
6 of section 45(c)(3) are each amended by striking “2004”
7 and inserting “2007”.

8 (b) EXPANSION OF CREDIT FOR OPEN-LOOP BIO-
9 MASS, LANDFILL GAS FACILITIES, AND TRASH COMBUS-
10 TION FACILITIES.—Paragraph (3) of section 45(c) is
11 amended by adding at the end the following new subpara-
12 graphs:

13 “(D) OPEN-LOOP BIOMASS FACILITIES.—
14 In the case of a facility using open-loop biomass
15 to produce electricity, the term ‘qualified facil-
16 ity’ means any facility owned by the taxpayer
17 which is originally placed in service before Jan-
18 uary 1, 2007.

19 “(E) LANDFILL GAS FACILITIES.—In the
20 case of a facility producing electricity from gas
21 derived from the biodegradation of municipal
22 solid waste, the term ‘qualified facility’ means
23 any facility owned by the taxpayer which is
24 originally placed in service before January 1,
25 2007.

1 “(F) TRASH COMBUSTION FACILITIES.—In
2 the case of a facility which burns municipal
3 solid waste to produce electricity, the term
4 ‘qualified facility’ means any facility owned by
5 the taxpayer which is originally placed in serv-
6 ice after the date of the enactment of this sub-
7 paragraph and before January 1, 2007.”.

8 (c) DEFINITION AND SPECIAL RULES.—Subsection
9 (c) of section 45 is amended by adding at the end the
10 following new paragraphs:

11 “(5) OPEN-LOOP BIOMASS.—The term ‘open-
12 loop biomass’ means any solid, nonhazardous, cel-
13 lulosic waste material which is segregated from other
14 waste materials and which is derived from—

15 “(A) any of the following forest-related re-
16 sources: mill residues, precommercial thinnings,
17 slash, and brush,

18 “(B) solid wood waste materials, including
19 waste pallets, crates, dunnage, manufacturing
20 and construction wood wastes (other than pres-
21 sure-treated, chemically-treated, or painted
22 wood wastes), and landscape or right-of-way
23 tree trimmings, but not including municipal
24 solid waste (garbage), gas derived from the bio-

1 degradation of solid waste, or paper that is
2 commonly recycled, or

3 “(C) agriculture sources, including orchard
4 tree crops, vineyard, grain, legumes, sugar, and
5 other crop by-products or residues.

6 Such term shall not include closed-loop biomass.

7 “(6) REDUCED CREDIT FOR CERTAIN
8 PREEFFECTIVE DATE FACILITIES.—In the case of
9 any facility described in subparagraph (D) or (E) of
10 paragraph (3) which is placed in service before the
11 date of the enactment of this paragraph—

12 “(A) subsection (a)(1) shall be applied by
13 substituting ‘1.0 cents’ for ‘1.5 cents’, and

14 “(B) the 5-year period beginning on the
15 date of the enactment of this paragraph shall
16 be substituted in lieu of the 10-year period in
17 subsection (a)(2)(A)(ii).

18 “(7) CREDIT ELIGIBILITY FOR OPEN-LOOP BIO-
19 MASS FACILITIES.—In the case of any facility de-
20 scribed in paragraph (3)(D) which is placed in serv-
21 ice before the date of enactment of this paragraph,
22 if the owner of such facility is not the producer of
23 the electricity, the person eligible for the credit al-
24 lowable under subsection (a) is the lessee or the op-
25 erator of such facility.

1 “(8) LIMIT ON REDUCTIONS FOR GRANTS, ETC.,
 2 FOR OPEN-LOOP BIOMASS FACILITIES.—If the
 3 amount of the credit determined under subsection
 4 (a) with respect to any open-loop biomass facility is
 5 required to be reduced under paragraph (3) of sub-
 6 section (b), the fraction under such paragraph shall
 7 in no event be greater than $\frac{1}{2}$.

8 “(9) COORDINATION WITH SECTION 29.—The
 9 term ‘qualified facility’ shall not include any facility
 10 the production from which is allowed as a credit
 11 under section 29 for the taxable year or any prior
 12 taxable year.”.

13 (d) QUALIFIED ENERGY RESOURCES.—Paragraph
 14 (1) of section 45(c) (relating to qualified energy resources)
 15 is amended to read as follows:

16 “(1) QUALIFIED ENERGY RESOURCES.—The
 17 term ‘qualified energy resources’ means any resource
 18 described in paragraph (3) which is used to generate
 19 electricity at a qualified facility.”.

20 (e) EFFECTIVE DATE.—The amendments made by
 21 this section shall apply to electricity sold after the date
 22 of the enactment of this Act.

23 **SEC. 103. CREDIT FOR QUALIFIED FUEL CELL POWER**
 24 **PLANTS.**

25 (a) BUSINESS PROPERTY.—

1 (1) IN GENERAL.—Subparagraph (A) of section
 2 48(a)(3) (defining energy property) is amended by
 3 striking “or” at the end of clause (i), by adding
 4 “or” at the end of clause (ii), and by inserting after
 5 clause (ii) the following new clause:

6 “(iii) equipment which is part of a
 7 qualified fuel cell power plant,”.

8 (2) QUALIFIED FUEL CELL POWER PLANT.—
 9 Subsection (a) of section 48 is amended by redesignig-
 10 nating paragraphs (4) and (5) as paragraphs (5)
 11 and (6), respectively, and by inserting after para-
 12 graph (3) the following new paragraph:

13 “(4) QUALIFIED FUEL CELL POWER PLANT.—
 14 For purposes of this subsection—

15 “(A) IN GENERAL.—The term ‘qualified
 16 fuel cell power plant’ means a fuel cell power
 17 plant that has an electricity-only generation ef-
 18 ficiency greater than 30 percent.

19 “(B) LIMITATION.—The energy credit with
 20 respect to any qualified fuel cell power plant for
 21 any taxable year shall not exceed—

22 “(i) \$500 for each ½ kilowatt of ca-
 23 pacity of the power plant, reduced by

1 “(ii) the aggregate energy credits al-
 2 lowed with respect to such power plant for
 3 all prior taxable years.

4 “(C) FUEL CELL POWER PLANT.—The
 5 term ‘fuel cell power plant’ means an integrated
 6 system comprised of a fuel cell stack assembly
 7 and associated balance of plant components
 8 that converts a fuel into electricity using elec-
 9 trochemical means.

10 “(D) TERMINATION.—Such term shall not
 11 include any property placed in service after De-
 12 cember 31, 2006.”.

13 (3) EFFECTIVE DATE.—The amendments made
 14 by this subsection shall apply to property placed in
 15 service after December 31, 2003, under rules similar
 16 to the rules of section 48(m) of the Internal Revenue
 17 Code of 1986 (as in effect on the day before the
 18 date of the enactment of the Revenue Reconciliation
 19 Act of 1990).

20 (b) NONBUSINESS PROPERTY.—

21 (1) IN GENERAL.—Subpart A of part IV of sub-
 22 chapter A of chapter 1 (relating to nonrefundable
 23 personal credits) is amended by inserting after sec-
 24 tion 25C the following new section:

1 **“SEC. 25D. NONBUSINESS QUALIFIED FUEL CELL POWER**
 2 **PLANT.**

3 “(a) IN GENERAL.—In the case of an individual,
 4 there shall be allowed as a credit against the tax imposed
 5 by this chapter for the taxable year an amount equal to
 6 10 percent of the qualified fuel cell power plant expendi-
 7 tures which are paid or incurred during such year.

8 “(b) LIMITATIONS.—The credit allowed under sub-
 9 section (a) with respect to any qualified fuel cell power
 10 plant for any taxable year shall not exceed—

11 “(i) \$500 for each $\frac{1}{2}$ kilowatt of ca-
 12 pacity of the power plant, reduced by

13 “(ii) the aggregate energy credits al-
 14 lowed with respect to such power plant for
 15 all prior taxable years.

16 “(c) QUALIFIED FUEL CELL POWER PLANT EX-
 17 PENDITURES.—For purposes of this section, the term
 18 ‘qualified fuel cell power plant expenditures’ means ex-
 19 penditures by the taxpayer for any qualified fuel cell power
 20 plant (as defined in section 48(a)(4))—

21 “(1) which meets the requirements of subpara-
 22 graphs (B) and (D) of section 48(a)(3), and

23 “(2) which is installed on or in connection with
 24 a dwelling unit—

25 “(A) which is located in the United States,
 26 and

1 “(B) which is used by the taxpayer as a
2 residence.

3 Such term includes expenditures for labor costs properly
4 allocable to the onsite preparation, assembly, or original
5 installation of the property.

6 “(d) SPECIAL RULES.—For purposes of this section,
7 rules similar to the rules of section 25C(d) shall apply.

8 “(e) BASIS ADJUSTMENTS.—For purposes of this
9 subtitle, if a credit is allowed under this section for any
10 expenditure with respect to any property, the increase in
11 the basis of such property which would (but for this sub-
12 section) result from such expenditure shall be reduced by
13 the amount of the credit so allowed.

14 “(f) TERMINATION.—This section shall not apply to
15 any expenditure made after December 31, 2006.”.

16 (2) CONFORMING AMENDMENTS.—

17 (A) Subsection (a) of section 1016 is
18 amended by striking “and” at the end of para-
19 graph (28), by striking the period at the end of
20 paragraph (29) and inserting “, and”, and by
21 adding at the end the following new paragraph:

22 “(30) to the extent provided in section 25D(e),
23 in the case of amounts with respect to which a credit
24 has been allowed under section 25D.”.

1 (B) The table of sections for subpart A of
 2 part IV of subchapter A of chapter 1 is amend-
 3 ed by inserting after the item relating to section
 4 25C the following new item:

“Sec. 25D. Nonbusiness qualified fuel cell power plant.”.

5 (3) EFFECTIVE DATE.—The amendments made
 6 by this subsection shall apply to expenditures paid
 7 or incurred after December 31, 2003.

8 **SEC. 104. CREDIT FOR ENERGY EFFICIENCY IMPROVE-**
 9 **MENTS TO EXISTING HOMES.**

10 (a) IN GENERAL.—Subpart A of part IV of sub-
 11 chapter A of chapter 1 (relating to nonrefundable personal
 12 credits) is amended by inserting after section 25D the fol-
 13 lowing new section:

14 **“SEC. 25E. ENERGY EFFICIENCY IMPROVEMENTS TO EXIST-**
 15 **ING HOMES.**

16 “(a) ALLOWANCE OF CREDIT.—In the case of an in-
 17 dividual, there shall be allowed as a credit against the tax
 18 imposed by this chapter for the taxable year an amount
 19 equal to 20 percent of the amount paid or incurred by
 20 the taxpayer for qualified energy efficiency improvements
 21 installed during such taxable year.

22 “(b) LIMITATIONS.—

23 “(1) MAXIMUM CREDIT.—The credit allowed by
 24 this section with respect to a dwelling shall not ex-
 25 ceed \$2,000.

1 “(2) PRIOR CREDIT AMOUNTS FOR TAXPAYER
2 ON SAME DWELLING TAKEN INTO ACCOUNT.—If a
3 credit was allowed to the taxpayer under subsection
4 (a) with respect to a dwelling in 1 or more prior tax-
5 able years, the amount of the credit otherwise allow-
6 able for the taxable year with respect to that dwell-
7 ing shall not exceed the amount of \$2,000 reduced
8 by the sum of the credits allowed under subsection
9 (a) to the taxpayer with respect to the dwelling for
10 all prior taxable years.

11 “(c) CARRYFORWARD OF UNUSED CREDIT.—If the
12 credit allowable under subsection (a) exceeds the limita-
13 tion imposed by section 26(a) for such taxable year re-
14 duced by the sum of the credits allowable under this sub-
15 part (other than this section) for such taxable year, such
16 excess shall be carried to the succeeding taxable year and
17 added to the credit allowable under subsection (a) for such
18 succeeding taxable year.

19 “(d) QUALIFIED ENERGY EFFICIENCY IMPROVE-
20 MENTS.—For purposes of this section, the term ‘qualified
21 energy efficiency improvements’ means any energy effi-
22 cient building envelope component which meets the pre-
23 scriptive criteria for such component established by the
24 2000 International Energy Conservation Code (or, in the

1 case of metal roofs with appropriate pigmented coatings,
2 meets the Energy Star program requirements), if—

3 “(1) such component is installed in or on a
4 dwelling—

5 “(A) located in the United States, and

6 “(B) owned and used by the taxpayer as
7 the taxpayer’s principal residence (within the
8 meaning of section 121),

9 “(2) the original use of such component com-
10 mences with the taxpayer, and

11 “(3) such component reasonably can be ex-
12 pected to remain in use for at least 5 years.

13 If the aggregate cost of such components with respect to
14 any dwelling exceeds \$1,000, such components shall be
15 treated as qualified energy efficiency improvements only
16 if such components are also certified in accordance with
17 subsection (e) as meeting such criteria.

18 “(e) CERTIFICATION.—The certification described in
19 subsection (d) shall be—

20 “(1) determined on the basis of the technical
21 specifications or applicable ratings (including prod-
22 uct labeling requirements) for the measurement of
23 energy efficiency, based upon energy use or building
24 envelope component performance, for the energy effi-
25 cient building envelope component,

1 “(2) provided by a local building regulatory au-
 2 thority, a utility, a manufactured home production
 3 inspection primary inspection agency (IPLA), or an
 4 accredited home energy rating system provider who
 5 is accredited by or otherwise authorized to use ap-
 6 proved energy performance measurement methods by
 7 the Residential Energy Services Network
 8 (RESNET), and

9 “(3) made in writing in a manner that specifies
 10 in readily verifiable fashion the energy efficient
 11 building envelope components installed and their re-
 12 spective energy efficiency levels.

13 “(f) DEFINITIONS AND SPECIAL RULES.—

14 “(1) TENANT-STOCKHOLDER IN COOPERATIVE
 15 HOUSING CORPORATION.—In the case of an indi-
 16 vidual who is a tenant-stockholder (as defined in sec-
 17 tion 216) in a cooperative housing corporation (as
 18 defined in such section), such individual shall be
 19 treated as having paid his tenant-stockholder’s pro-
 20 portionate share (as defined in section 216(b)(3)) of
 21 the cost of qualified energy efficiency improvements
 22 made by such corporation.

23 “(2) CONDOMINIUMS.—

24 “(A) IN GENERAL.—In the case of an indi-
 25 vidual who is a member of a condominium man-

1 agement association with respect to a condo-
2 minium which he owns, such individual shall be
3 treated as having paid his proportionate share
4 of the cost of qualified energy efficiency im-
5 provements made by such association.

6 “(B) CONDOMINIUM MANAGEMENT ASSO-
7 CIATION.—For purposes of this paragraph, the
8 term ‘condominium management association’
9 means an organization which meets the require-
10 ments of paragraph (1) of section 528(c) (other
11 than subparagraph (E) thereof) with respect to
12 a condominium project substantially all of the
13 units of which are used as residences.

14 “(3) BUILDING ENVELOPE COMPONENT.—The
15 term ‘building envelope component’ means insulation
16 material or system which is specifically and pri-
17 marily designed to reduce the heat loss or gain of a
18 dwelling when installed in or on such dwelling, exte-
19 rior windows (including skylights) and doors, and
20 metal roofs with appropriate pigmented coatings
21 which are specifically and primarily designed to re-
22 duce the heat gain of a dwelling when installed in
23 or on such dwelling.

24 “(4) MANUFACTURED HOMES INCLUDED.—For
25 purposes of this section, the term ‘dwelling’ includes

1 a manufactured home which conforms to Federal
2 Manufactured Home Construction and Safety Stand-
3 ards (24 CFR 3280).

4 “(g) BASIS ADJUSTMENT.—For purposes of this sub-
5 title, if a credit is allowed under this section for any ex-
6 penditure with respect to any property, the increase in the
7 basis of such property which would (but for this sub-
8 section) result from such expenditure shall be reduced by
9 the amount of the credit so allowed.

10 “(h) APPLICATION OF SECTION.—This section shall
11 apply to qualified energy efficiency improvements installed
12 after December 31, 2003, and before January 1, 2007.”.

13 (b) CONFORMING AMENDMENTS.—

14 (1) Subsection (c) of section 23 is amended by
15 striking “section 1400C” and inserting “sections
16 25E and 1400C”.

17 (2) Subsection (a) of section 1016 is amended
18 by striking “and” at the end of paragraph (29), by
19 striking the period at the end of paragraph (30) and
20 inserting “, and”, and by adding at the end the fol-
21 lowing new paragraph:

22 “(31) to the extent provided in section 25E(g),
23 in the case of amounts with respect to which a credit
24 has been allowed under section 25E.”.

1 (3) Subsection (d) of section 1400C is amended
2 by inserting “and section 25E” after “this section”.

3 (4) The table of sections for subpart A of part
4 IV of subchapter A of chapter 1 is amended by in-
5 serting after the item relating to section 25D the
6 following new item:

 “Sec. 25E. Energy efficiency improvements to existing homes.”.

7 (c) EFFECTIVE DATE.—The amendments made by
8 this section shall apply to taxable years ending after De-
9 cember 31, 2003.

10 **SEC. 105. BUSINESS CREDIT FOR CONSTRUCTION OF NEW**
11 **ENERGY EFFICIENT HOME.**

12 (a) IN GENERAL.—Subpart D of part IV of sub-
13 chapter A of chapter 1 (relating to business related cred-
14 its) is amended by inserting after section 45F the fol-
15 lowing new section:

16 **“SEC. 45G. NEW ENERGY EFFICIENT HOME CREDIT.**

17 “(a) IN GENERAL.—For purposes of section 38, in
18 the case of an eligible contractor, the credit determined
19 under this section for the taxable year is an amount equal
20 to the aggregate adjusted bases of all energy efficient
21 property installed in a qualified new energy efficient home
22 during construction of such home.

23 “(b) LIMITATIONS.—

24 “(1) MAXIMUM CREDIT.—

1 “(A) IN GENERAL.—The credit allowed by
2 this section with respect to a dwelling shall not
3 exceed \$2,000.

4 “(B) PRIOR CREDIT AMOUNTS ON SAME
5 DWELLING TAKEN INTO ACCOUNT.—If a credit
6 was allowed under subsection (a) with respect
7 to a dwelling in 1 or more prior taxable years,
8 the amount of the credit otherwise allowable for
9 the taxable year with respect to that dwelling
10 shall not exceed the amount of \$2,000 reduced
11 by the sum of the credits allowed under sub-
12 section (a) with respect to the dwelling for all
13 prior taxable years.

14 “(2) COORDINATION WITH REHABILITATION
15 AND ENERGY CREDITS.—For purposes of this sec-
16 tion—

17 “(A) the basis of any property referred to
18 in subsection (a) shall be reduced by that por-
19 tion of the basis of any property which is attrib-
20 utable to qualified rehabilitation expenditures
21 (as defined in section 47(c)(2)) or to the energy
22 percentage of energy property (as determined
23 under section 48(a)), and

1 “(B) expenditures taken into account
2 under either section 47 or 48(a) shall not be
3 taken into account under this section.

4 “(c) DEFINITIONS.—For purposes of this section—

5 “(1) ELIGIBLE CONTRACTOR.—The term ‘eligi-
6 ble contractor’ means the person who constructed
7 the new energy efficient home, or in the case of a
8 manufactured home which conforms to Federal
9 Manufactured Home Construction and Safety Stand-
10 ards (24 CFR 3280), the manufactured home pro-
11 ducer of such home.

12 “(2) ENERGY EFFICIENT PROPERTY.—The
13 term ‘energy efficient property’ means any energy
14 efficient building envelope component, and any en-
15 ergy efficient heating or cooling appliance.

16 “(3) QUALIFIED NEW ENERGY EFFICIENT
17 HOME.—The term ‘qualified new energy efficient
18 home’ means a dwelling—

19 “(A) located in the United States,

20 “(B) the construction of which is substan-
21 tially completed after December 31, 2003,

22 “(C) the original use of which is as a prin-
23 cipal residence (within the meaning of section
24 121) which commences with the person who ac-

1 quires such dwelling from the eligible con-
2 tractor, and

3 “(D) which is certified to have a level of
4 annual heating and cooling energy consumption
5 that is at least 30 percent below the annual
6 level of heating and cooling energy consumption
7 of a comparable dwelling constructed in accord-
8 ance with the standards of the 2000 Inter-
9 national Energy Conservation Code and to have
10 building envelope component improvements ac-
11 count for $\frac{1}{3}$ of such 30 percent.

12 “(4) CONSTRUCTION.—The term ‘construction’
13 includes reconstruction and rehabilitation.

14 “(5) ACQUIRE.—The term ‘acquire’ includes
15 purchase and, in the case of reconstruction and re-
16 habilitation, such term includes a binding written
17 contract for such reconstruction or rehabilitation.

18 “(6) BUILDING ENVELOPE COMPONENT.—The
19 term ‘building envelope component’ means insulation
20 material or system which is specifically and pri-
21 marily designed to reduce the heat loss or gain of a
22 dwelling when installed in or on such dwelling, exte-
23 rior windows (including skylights) and doors, and
24 metal roofs with appropriate pigmented coatings
25 which are specifically and primarily designed to re-

1 duce the heat gain of a dwelling when installed in
2 or on such dwelling.

3 “(7) MANUFACTURED HOME INCLUDED.—The
4 term ‘dwelling’ includes a manufactured home con-
5 forming to Federal Manufactured Home Construc-
6 tion and Safety Standards (24 CFR 3280).

7 “(d) CERTIFICATION.—

8 “(1) METHOD.—A certification described in
9 subsection (c)(3)(D) shall be determined on the
10 basis of one of the following methods:

11 “(A) The technical specifications or appli-
12 cable ratings (including product labeling re-
13 quirements) for the measurement of energy effi-
14 ciency for the energy efficient building envelope
15 component or energy efficient heating or cooling
16 appliance, based upon energy use or building
17 envelope component performance.

18 “(B) An energy performance measurement
19 method that utilizes computer software ap-
20 proved by organizations designated by the Sec-
21 retary.

22 “(2) PROVIDER.—Such certification shall be
23 provided by—

24 “(A) in the case of a method described in
25 paragraph (1)(A), a local building regulatory

1 authority, a utility, a manufactured home pro-
2 duction inspection primary inspection agency
3 (IPIA), or an accredited home energy rating
4 systems provider who is accredited by, or other-
5 wise authorized to use, approved energy per-
6 formance measurement methods by the Home
7 Energy Ratings Systems Council or the Na-
8 tional Association of State Energy Officials, or

9 “(B) in the case of a method described in
10 paragraph (1)(B), an individual recognized by
11 an organization designated by the Secretary for
12 such purposes.

13 “(3) FORM.—Such certification shall be made
14 in writing in a manner that specifies in readily
15 verifiable fashion the energy efficient building enve-
16 lope components and energy efficient heating or
17 cooling appliances installed and their respective en-
18 ergy efficiency levels, and in the case of a method
19 described in subparagraph (B) of paragraph (1), ac-
20 companied by written analysis documenting the
21 proper application of a permissible energy perform-
22 ance measurement method to the specific cir-
23 cumstances of such dwelling.

24 “(4) REGULATIONS.—

1 “(A) IN GENERAL.—In prescribing regula-
2 tions under this subsection for energy perform-
3 ance measurement methods, the Secretary shall
4 prescribe procedures for calculating annual en-
5 ergy costs for heating and cooling and cost sav-
6 ings and for the reporting of the results. Such
7 regulations shall—

8 “(i) be based on the National Home
9 Energy Rating Technical Guidelines of the
10 National Association of State Energy Offi-
11 cials, the Home Energy Rating Guidelines
12 of the Home Energy Rating Systems
13 Council, or the modified 2001 California
14 Residential ACM manual,

15 “(ii) provide that any calculation pro-
16 cedures be developed such that the same
17 energy efficiency measures allow a home to
18 qualify for the credit under this section re-
19 gardless of whether the house uses a gas
20 or oil furnace or boiler or an electric heat
21 pump, and

22 “(iii) require that any computer soft-
23 ware allow for the printing of the Federal
24 tax forms necessary for the credit under
25 this section and explanations for the home-

1 buyer of the energy efficient features that
2 were used to comply with the requirements
3 of this section.

4 “(B) PROVIDERS.—For purposes of para-
5 graph (2)(B), the Secretary shall establish re-
6 quirements for the designation of individuals
7 based on the requirements for energy consult-
8 ants and home energy raters specified by the
9 National Association of State Energy Officials.

10 “(e) BASIS ADJUSTMENT.—For purposes of this sub-
11 title, if a credit is allowed under this section for any ex-
12 penditure with respect to any property, the increase in the
13 basis of such property which would (but for this sub-
14 section) result from such expenditure shall be reduced by
15 the amount of the credit so allowed.

16 “(f) APPLICATION OF SECTION.—Subsection (a) shall
17 apply to dwellings purchased during the period beginning
18 on January 1, 2004, and ending on December 31, 2006.”.

19 (b) CREDIT MADE PART OF GENERAL BUSINESS
20 CREDIT.—Subsection (b) of section 38 (relating to current
21 year business credit) is amended by striking “plus” at the
22 end of paragraph (14), by striking the period at the end
23 of paragraph (15) and inserting “, plus”, and by adding
24 at the end thereof the following new paragraph:

1 “(16) the new energy efficient home credit de-
2 termined under section 45G.”.

3 (c) DENIAL OF DOUBLE BENEFIT.—Section 280C
4 (relating to certain expenses for which credits are allow-
5 able) is amended by adding at the end thereof the fol-
6 lowing new subsection:

7 “(d) NEW ENERGY EFFICIENT HOME EXPENSES.—
8 No deduction shall be allowed for that portion of expenses
9 for a new energy efficient home otherwise allowable as a
10 deduction for the taxable year which is equal to the
11 amount of the credit determined for such taxable year
12 under section 45G.”.

13 (d) LIMITATION ON CARRYBACK.—Subsection (d) of
14 section 39 is amended by adding at the end the following
15 new paragraph:

16 “(11) NO CARRYBACK OF NEW ENERGY EFFI-
17 CIENT HOME CREDIT BEFORE EFFECTIVE DATE.—
18 No portion of the unused business credit for any
19 taxable year which is attributable to the credit deter-
20 mined under section 45G may be carried back to any
21 taxable year ending before January 1, 2004.”.

22 (e) DEDUCTION FOR CERTAIN UNUSED BUSINESS
23 CREDITS.—Subsection (c) of section 196 is amended by
24 striking “and” at the end of paragraph (9), by striking
25 the period at the end of paragraph (10) and inserting “,

1 and”, and by adding after paragraph (10) the following
 2 new paragraph:

3 “(11) the new energy efficient home credit de-
 4 termined under section 45G.”.

5 (f) CLERICAL AMENDMENT.—The table of sections
 6 for subpart D of part IV of subchapter A of chapter 1
 7 is amended by inserting after the item relating to section
 8 45F the following new item:

“Sec. 45G. New energy efficient home credit.”.

9 (g) EFFECTIVE DATE.—The amendments made by
 10 this section shall apply to taxable years ending after De-
 11 cember 31, 2003.

12 **SEC. 106. ENERGY CREDIT FOR COMBINED HEAT AND**
 13 **POWER SYSTEM PROPERTY.**

14 (a) IN GENERAL.—Subparagraph (A) of section
 15 48(a)(3) (defining energy property) is amended by strik-
 16 ing “or” at the end of clause (ii), by adding “or” at the
 17 end of clause (iii), and by inserting after clause (iii) the
 18 following new clause:

19 “(iv) combined heat and power system
 20 property,”.

21 (b) COMBINED HEAT AND POWER SYSTEM PROP-
 22 erty.—Subsection (a) of section 48 is amended by redes-
 23 ignating paragraphs (5) and (6) as paragraphs (6) and
 24 (7), respectively, and by inserting after paragraph (4) the
 25 following new paragraph:

1 “(5) COMBINED HEAT AND POWER SYSTEM
2 PROPERTY.—For purposes of this subsection—

3 “(A) COMBINED HEAT AND POWER SYS-
4 TEM PROPERTY.—The term ‘combined heat and
5 power system property’ means property com-
6 prising a system—

7 “(i) which uses the same energy
8 source for the simultaneous or sequential
9 generation of electrical power, mechanical
10 shaft power, or both, in combination with
11 the generation of steam or other forms of
12 useful thermal energy (including heating
13 and cooling applications),

14 “(ii) which has an electrical capacity
15 of more than 50 kilowatts or a mechanical
16 energy capacity of more than 67 horse-
17 power or an equivalent combination of elec-
18 trical and mechanical energy capacities,

19 “(iii) which produces—

20 “(I) at least 20 percent of its
21 total useful energy in the form of
22 thermal energy, and

23 “(II) at least 20 percent of its
24 total useful energy in the form of elec-

1 trical or mechanical power (or com-
2 bination thereof),

3 “(iv) the energy efficiency percentage
4 of which exceeds 60 percent (70 percent in
5 the case of a system with an electrical ca-
6 pacity in excess of 50 megawatts or a me-
7 chanical energy capacity in excess of
8 67,000 horsepower, or an equivalent com-
9 bination of electrical and mechanical en-
10 ergy capacities), and

11 “(v) which is placed in service after
12 December 31, 2003, and before January 1,
13 2007.

14 “(B) SPECIAL RULES.—

15 “(i) ENERGY EFFICIENCY PERCENT-
16 AGE.—For purposes of subparagraph
17 (A)(iv), the energy efficiency percentage of
18 a system is the fraction—

19 “(I) the numerator of which is
20 the total useful electrical, thermal,
21 and mechanical power produced by
22 the system at normal operating rates,
23 and

1 “(II) the denominator of which is
2 the lower heating value of the primary
3 fuel source for the system.

4 “(ii) DETERMINATIONS MADE ON BTU
5 BASIS.—The energy efficiency percentage
6 and the percentages under subparagraph
7 (A)(iii) shall be determined on a Btu basis.

8 “(iii) INPUT AND OUTPUT PROPERTY
9 NOT INCLUDED.—The term ‘combined heat
10 and power system property’ does not in-
11 clude property used to transport the en-
12 ergy source to the facility or to distribute
13 energy produced by the facility.

14 “(iv) PUBLIC UTILITY PROPERTY.—

15 “(I) ACCOUNTING RULE FOR
16 PUBLIC UTILITY PROPERTY.—If the
17 combined heat and power system
18 property is public utility property (as
19 defined in section 168(i)(1)), the tax-
20 payer may only claim the credit under
21 the subsection if, with respect to such
22 property, the taxpayer uses a normal-
23 ization method of accounting.

24 “(II) CERTAIN EXCEPTION NOT
25 TO APPLY.—The matter in paragraph

1 (3) which follows subparagraph (D)
2 shall not apply to combined heat and
3 power system property.

4 “(C) EXTENSION OF DEPRECIATION RE-
5 COVERY PERIOD.—If a taxpayer is allowed cred-
6 it under this section for combined heat and
7 power system property and such property would
8 (but for this subparagraph) have a class life of
9 15 years or less under section 168, such prop-
10 erty shall be treated as having a 22-year class
11 life for purposes of section 168.”.

12 (c) NO CARRYBACK OF ENERGY CREDIT BEFORE
13 EFFECTIVE DATE.—Subsection (d) of section 39 is
14 amended by adding at the end the following new para-
15 graph:

16 “(12) NO CARRYBACK OF ENERGY CREDIT BE-
17 FORE EFFECTIVE DATE.—No portion of the unused
18 business credit for any taxable year which is attrib-
19 utable to the energy credit with respect to property
20 described in section 48(a)(5) may be carried back to
21 a taxable year ending before January 1, 2004.”.

22 (d) EFFECTIVE DATE.—The amendments made by
23 this section shall apply to property placed in service after
24 December 31, 2003.

1 **SEC. 107. NEW NONREFUNDABLE PERSONAL CREDITS AL-**
 2 **LOWED AGAINST REGULAR AND MINIMUM**
 3 **TAXES.**

4 (a) IN GENERAL.—

5 (1) Section 25C.—Section 25C(b), as added by
 6 section 101, is amended by adding at the end the
 7 following new paragraph:

8 “(3) LIMITATION BASED ON AMOUNT OF
 9 TAX.—The credit allowed under subsection (a) for
 10 the taxable year shall not exceed the excess of—

11 “(A) the sum of the regular tax liability
 12 (as defined in section 26(b)) plus the tax im-
 13 posed by section 55, over

14 “(B) the sum of the credits allowable
 15 under this subpart (other than this section and
 16 section 25D and 25E) and section 27 for the
 17 taxable year.”.

18 (2) Section 25D.—Section 25D(b), as added by
 19 section 103, is amended—

20 (A) by striking “The credit” and inserting
 21 the following:

22 “(1) IN GENERAL.—The credit”, and

23 (B) by adding at the end the following new
 24 paragraph:

1 “(2) LIMITATION BASED ON AMOUNT OF
2 TAX.—The credit allowed under subsection (a) for
3 the taxable year shall not exceed the excess of—

4 “(A) the sum of the regular tax liability
5 (as defined in section 26(b)) plus the tax im-
6 posed by section 55, over

7 “(B) the sum of the credits allowable
8 under this subpart (other than this section and
9 section 25E) and section 27 for the taxable
10 year.”.

11 (3) Section 25E.—Section 25E(b), as added by
12 section 104, is amended by adding at the end the
13 following new paragraph:

14 “(3) LIMITATION BASED ON AMOUNT OF
15 TAX.—The credit allowed under subsection (a) for
16 the taxable year shall not exceed the excess of—

17 “(A) the sum of the regular tax liability
18 (as defined in section 26(b)) plus the tax im-
19 posed by section 55, over

20 “(B) the sum of the credits allowable
21 under this subpart (other than this section) and
22 section 27 for the taxable year.”.

23 (b) CONFORMING AMENDMENTS.—

1 (1) Section 23(b)(4)(B) is amended by inserting
2 “and sections 25C, 25D, and 25E” after “this sec-
3 tion”.

4 (2) Section 24(b)(3)(B) is amended by striking
5 “and 25B” and inserting “, 25B, 25C, 25D, and
6 25E”.

7 (3) Section 25(e)(1)(C) is amended by inserting
8 “25C, 25D, and 25E” after “25B,”.

9 (4) Section 25B(g)(2) is amended by striking
10 “section 23” and inserting “sections 23, 25C, 25D,
11 and 25E”.

12 (5) Section 25E(c), as added by section 104, is
13 amended by striking “section 26(a) for such taxable
14 year reduced by the sum of the credits allowable
15 under this subpart (other than this section)” and in-
16 serting “subsection (b)(3)”.

17 (6) Section 26(a)(1) is amended by striking
18 “and 25B” and inserting “25B, 25C, 25D, and
19 25E”.

20 (7) Section 904(h) is amended by striking “and
21 25B” and inserting “25B, 25C, 25D, and 25E”.

22 (8) Section 1400C(d) is amended by striking
23 “and 25B” and inserting “25B, 25C, 25D, and
24 25E”.

1 (c) EFFECTIVE DATE.—The amendments made by
 2 this section shall apply to taxable years beginning after
 3 December 31, 2003.

4 **SEC. 108. REPEAL OF 4.3-CENT MOTOR FUEL EXCISE TAXES**
 5 **ON RAILROADS AND INLAND WATERWAY**
 6 **TRANSPORTATION WHICH REMAIN IN GEN-**
 7 **ERAL FUND.**

8 (a) TAXES ON TRAINS.—

9 (1) IN GENERAL.—Subparagraph (A) of section
 10 4041(a)(1) is amended by striking “or a diesel-pow-
 11 ered train” each place it appears and by striking “or
 12 train”.

13 (2) CONFORMING AMENDMENTS.—

14 (A) Subparagraph (C) of section
 15 4041(a)(1) is amended by striking clause (ii)
 16 and by redesignating clause (iii) as clause (ii).

17 (B) Subparagraph (C) of section
 18 4041(b)(1) is amended by striking all that fol-
 19 lows “section 6421(e)(2)” and inserting a pe-
 20 riod.

21 (C) Subsection (d) of section 4041 is
 22 amended by redesignating paragraph (3) as
 23 paragraph (4) and by inserting after paragraph
 24 (2) the following new paragraph:

1 “(3) DIESEL FUEL USED IN TRAINS.—There is
2 hereby imposed a tax of 0.1 cent per gallon on any
3 liquid other than gasoline (as defined in section
4 4083)—

5 “(A) sold by any person to an owner, les-
6 see, or other operator of a diesel-powered train
7 for use as a fuel in such train, or

8 “(B) used by any person as a fuel in a die-
9 sel-powered train unless there was a taxable
10 sale of such fuel under subparagraph (A).

11 No tax shall be imposed by this paragraph on the
12 sale or use of any liquid if tax was imposed on such
13 liquid under section 4081.”

14 (D) Subsection (e) of section 4082 is
15 amended by striking “section 4041(a)(1)” and
16 inserting “subsections (d)(3) and (a)(1) of sec-
17 tion 4041, respectively”.

18 (E) Paragraph (3) of section 4083(a) is
19 amended by striking “or a diesel-powered
20 train”.

21 (F) Paragraph (3) of section 6421(f) is
22 amended to read as follows:

23 “(3) GASOLINE USED IN TRAINS.—In the case
24 of gasoline used as a fuel in a train, this section
25 shall not apply with respect to the Leaking Under-

1 ground Storage Tank Trust Fund financing rate
2 under section 4081.”

3 (G) Paragraph (3) of section 6427(l) is
4 amended to read as follows:

5 “(3) REFUND OF CERTAIN TAXES ON FUEL
6 USED IN DIESEL-POWERED TRAINS.—For purposes
7 of this subsection, the term ‘nontaxable use’ includes
8 fuel used in a diesel-powered train. The preceding
9 sentence shall not apply to the tax imposed by sec-
10 tion 4041(d) and the Leaking Underground Storage
11 Tank Trust Fund financing rate under section 4081
12 except with respect to fuel sold for exclusive use by
13 a State or any political subdivision thereof.”

14 (b) FUEL USED ON INLAND WATERWAYS.—

15 (1) IN GENERAL.—Paragraph (1) of section
16 4042(b) is amended by adding “and” at the end of
17 subparagraph (A), by striking “, and” at the end of
18 subparagraph (B) and inserting a period, and by
19 striking subparagraph (C).

20 (2) CONFORMING AMENDMENT.—Paragraph (2)
21 of section 4042(b) is amended by striking subpara-
22 graph (C).

23 (c) EFFECTIVE DATE.—The amendments made by
24 this section shall take effect on October 1, 2003.

1 **SEC. 109. REDUCED MOTOR FUEL EXCISE TAX ON CERTAIN**
 2 **MIXTURES OF DIESEL FUEL.**

3 (a) IN GENERAL.—Paragraph (2) of section 4081(a)
 4 is amended by adding at the end the following:

5 “(C) DIESEL-WATER FUEL EMULSION.—In
 6 the case of diesel-water fuel emulsion at least
 7 14 percent of which is water and with respect
 8 to which the emulsion additive is registered by
 9 a United States manufacturer with the Envi-
 10 ronmental Protection Agency pursuant to sec-
 11 tion 211 of the Clean Air Act (as in effect on
 12 March 31, 2003)), subparagraph (A)(iii) shall
 13 be applied by substituting ‘19.7 cents’ for ‘24.3
 14 cents’.”.

15 (b) SPECIAL RULES FOR DIESEL-WATER FUEL
 16 EMULSIONS.—

17 (1) REFUNDS FOR TAX-PAID PURCHASES.—Sec-
 18 tion 6427 is amended by redesignating subsections
 19 (m) through (p) as subsections (n) through (q), re-
 20 spectively, and by inserting after subsection (l) the
 21 following new subsection:

22 “(m) DIESEL FUEL USED TO PRODUCE EMUL-
 23 SION.—

24 “(1) IN GENERAL.—Except as provided in sub-
 25 section (k), if any diesel fuel on which tax was im-
 26 posed by section 4081 at the regular tax rate is used

1 by any person in producing an emulsion described in
 2 section 4081(a)(2)(C) which is sold or used in such
 3 person's trade or business, the Secretary shall pay
 4 (without interest) to such person an amount equal to
 5 the excess of the regular tax rate over the incentive
 6 tax rate with respect to such fuel.

7 “(2) DEFINITIONS.—For purposes of paragraph
 8 (1)—

9 “(A) REGULAR TAX RATE.—The term ‘reg-
 10 ular tax rate’ means the aggregate rate of tax
 11 imposed by section 4081 determined without re-
 12 gard to section 4081(a)(2)(C).

13 “(B) INCENTIVE TAX RATE.—The term
 14 ‘incentive tax rate’ means the aggregate rate of
 15 tax imposed by section 4081 determined with
 16 regard to section 4081(a)(2)(C).”.

17 (2) LATER SEPARATION OF FUEL.—Section
 18 4081 (relating to imposition of tax) is amended by
 19 redesignating subsection (d) as subsection (e) and
 20 inserting after subsection (c) the following new sub-
 21 section:

22 “(c) LATER SEPARATION OF FUEL FROM DIESEL-
 23 WATER FUEL EMULSION.—If any person separates the
 24 taxable fuel from a diesel-water fuel emulsion on which
 25 tax was imposed under subsection (a) at a rate determined

1 under subsection (a)(2)(C) (or with respect to which a
 2 credit or payment was allowed or made by reason of sec-
 3 tion 6427), such person shall be treated as the refiner of
 4 such taxable fuel. The amount of tax imposed on any re-
 5 moval of such fuel by such person shall be reduced by the
 6 amount of tax imposed (and not credited or refunded) on
 7 any prior removal or entry of such fuel.”.

8 (c) EFFECTIVE DATE.—The amendments made by
 9 this section shall take effect on October 1, 2003.

10 **SEC. 110. REPEAL OF PHASEOUTS FOR QUALIFIED ELEC-**
 11 **TRIC VEHICLE CREDIT AND DEDUCTION FOR**
 12 **CLEAN FUEL-VEHICLES.**

13 (a) CREDIT FOR QUALIFIED ELECTRIC VEHICLES.—
 14 Subsection (b) of section 30 (relating to limitations) is
 15 amended by striking paragraph (2) and redesignating
 16 paragraph (3) as paragraph (2).

17 (b) DEDUCTION FOR CLEAN-FUEL VEHICLES AND
 18 CERTAIN REFUELING PROPERTY.—Paragraph (1) of sec-
 19 tion 179A(b) (relating to qualified clean-fuel vehicle prop-
 20 erty) is amended to read as follows:

21 “(1) QUALIFIED CLEAN-FUEL VEHICLE PROP-
 22 erty.— The cost which may be taken into account
 23 under subsection (a)(1)(A) with respect to any
 24 motor vehicle shall not exceed—

1 “(A) in the case of a motor vehicle not de-
 2 scribed in subparagraph (B) or (C), \$2,000,

3 “(B) in the case of any truck or van with
 4 a gross vehicle weight rating greater than
 5 10,000 pounds but not greater than 26,000
 6 pounds, \$5,000, or

7 “(C) \$50,000 in the case of—

8 “(i) a truck or van with a gross vehi-
 9 cle weight rating greater than 26,000
 10 pounds, or

11 “(ii) any bus which has a seating ca-
 12 pacity of at least 20 adults (not including
 13 the driver).”.

14 **TITLE II—RELIABILITY**

15 **SEC. 201. NATURAL GAS GATHERING LINES TREATED AS 7-** 16 **YEAR PROPERTY.**

17 (a) IN GENERAL.—Subparagraph (C) of section
 18 168(e)(3) (relating to classification of certain property) is
 19 amended by striking “and” at the end of clause (i), by
 20 redesignating clause (ii) as clause (iii), and by inserting
 21 after clause (i) the following new clause:

22 “(ii) any natural gas gathering line,
 23 and”.

1 (b) NATURAL GAS GATHERING LINE.—Subsection (i)
 2 of section 168 is amended by adding after paragraph (15)
 3 the following new paragraph:

4 “(16) NATURAL GAS GATHERING LINE.—The
 5 term ‘natural gas gathering line’ means—

6 “(A) the pipe, equipment, and appur-
 7 tenances determined to be a gathering line by
 8 the Federal Energy Regulatory Commission, or

9 “(B) the pipe, equipment, and appur-
 10 tenances used to deliver natural gas from the
 11 wellhead or a commonpoint to the point at
 12 which such gas first reaches—

13 “(i) a gas processing plant,

14 “(ii) an interconnection with a trans-
 15 mission pipeline certificated by the Federal
 16 Energy Regulatory Commission as an
 17 interstate transmission pipeline,

18 “(iii) an interconnection with an
 19 intrastate transmission pipeline, or

20 “(iv) a direct interconnection with a
 21 local distribution company, a gas storage
 22 facility, or an industrial consumer.”.

23 (c) ALTERNATIVE SYSTEM.—The table contained in
 24 section 168(g)(3)(B) is amended by inserting after the
 25 item relating to subparagraph (C)(i) the following:

“(C)(ii) 10”.

1 (d) ALTERNATIVE MINIMUM TAX EXCEPTION.—Sub-
 2 paragraph (B) of section 56(a)(1) is amended by inserting
 3 before the period the following: “, or in section
 4 168(e)(3)(C)(ii)”.

5 (e) EFFECTIVE DATE.—The amendments made by
 6 this section shall apply to property placed in service after
 7 the date of the enactment of this Act.

8 **SEC. 202. NATURAL GAS DISTRIBUTION LINES TREATED AS**
 9 **15-YEAR PROPERTY.**

10 (a) IN GENERAL.—Subparagraph (E) of section
 11 168(e)(3) (relating to classification of certain property) is
 12 amended by striking “and” at the end of clause (ii), by
 13 striking the period at the end of clause (iii) and by insert-
 14 ing “, and”, and by adding at the end the following new
 15 clause:

16 “(iv) any natural gas distribution
 17 line.”.

18 (b) ALTERNATIVE SYSTEM.—The table contained in
 19 section 168(g)(3)(B) is amended by inserting after the
 20 item relating to subparagraph (E)(iii) the following:

“(E)(iv) 20”.

21 (c) ALTERNATIVE MINIMUM TAX EXCEPTION.—Sub-
 22 paragraph (B) of section 56(a)(1) is amended by inserting
 23 before the period the following: “, or in section
 24 168(e)(3)(E)(iv)”.

1 (d) EFFECTIVE DATE.—The amendments made by
 2 this section shall apply to property placed in service after
 3 the date of the enactment of this Act.

4 **SEC. 203. ELECTRIC TRANSMISSION PROPERTY TREATED**
 5 **AS 15-YEAR PROPERTY.**

6 (a) IN GENERAL.—Subparagraph (E) of section
 7 168(e)(3) (relating to classification of certain property) is
 8 amended by striking “and” at the end of clause (iii), by
 9 striking the period at the end of clause (iv) and by insert-
 10 ing “, and”, and by adding at the end the following new
 11 clause:

12 “(v) any section 1245 property (as de-
 13 fined in section 1245(a)(3)) used in the
 14 transmission at 69 or more kilovolts of
 15 electricity for sale.”.

16 (b) ALTERNATIVE SYSTEM.—The table contained in
 17 section 168(g)(3)(B) is amended by inserting after the
 18 item relating to subparagraph (E)(iv) the following:

“(E)(v) 20”.

19 (c) ALTERNATIVE MINIMUM TAX EXCEPTION.—Sub-
 20 paragraph (B) of section 56(a)(1) is amended by inserting
 21 before the period the following: “, or in section
 22 168(e)(3)(E)(v)”.

23 (d) EFFECTIVE DATE.—The amendments made by
 24 this section shall apply to property placed in service after
 25 the date of the enactment of this Act.

1 **SEC. 204. EXPENSING OF CAPITAL COSTS INCURRED IN**
 2 **COMPLYING WITH ENVIRONMENTAL PROTEC-**
 3 **TION AGENCY SULFUR REGULATIONS.**

4 (a) IN GENERAL.—Part VI of subchapter B of chap-
 5 ter 1 (relating to itemized deductions for individuals and
 6 corporations) is amended by inserting after section 179A
 7 the following new section:

8 **“SEC. 179B. DEDUCTION FOR CAPITAL COSTS INCURRED IN**
 9 **COMPLYING WITH ENVIRONMENTAL PROTEC-**
 10 **TION AGENCY SULFUR REGULATIONS.**

11 “(a) TREATMENT AS EXPENSES.—A small business
 12 refiner (as defined in section 45H(c)(1)) may elect to treat
 13 75 percent of qualified capital costs (as defined in section
 14 45H(c)(2)) which are paid or incurred by the taxpayer
 15 during the taxable year as expenses which are not charge-
 16 able to capital account. Any cost so treated shall be al-
 17 lowed as a deduction for the taxable year in which paid
 18 or incurred.

19 “(b) REDUCED PERCENTAGE.—In the case of a small
 20 business refiner with average daily domestic refinery runs
 21 for the 1-year period ending on March 31, 2003, in excess
 22 of 155,000 barrels, the number of percentage points de-
 23 scribed in subsection (a) shall be reduced (not below zero)
 24 by the product of such number (before the application of
 25 this subsection) and the ratio of such excess to 50,000
 26 barrels.

1 “(c) BASIS REDUCTION.—For purposes of this title,
 2 the basis of any property shall be reduced by the portion
 3 of the cost of such property taken into account under sub-
 4 section (a).”.

5 (b) CLERICAL AMENDMENT.—The table of sections
 6 for part VI of subchapter B of chapter 1 is amended by
 7 inserting after the item relating to section 179A the fol-
 8 lowing new item:

“Sec. 179B. Deduction for capital costs incurred in complying
 with Environmental Protection Agency sulfur regu-
 lations.”.

9 (c) EFFECTIVE DATE.—The amendment made by
 10 this section shall apply to expenses paid or incurred after
 11 March 31, 2003.

12 **SEC. 205. CREDIT FOR PRODUCTION OF LOW SULPHUR DIE-**
 13 **SEL FUEL.**

14 (a) IN GENERAL.—Subpart D of part IV of sub-
 15 chapter A of chapter 1 (relating to business-related cred-
 16 its) is amended by adding at the end the following new
 17 section:

18 **“SEC. 45H. CREDIT FOR PRODUCTION OF LOW SULPHUR**
 19 **DIESEL FUEL.**

20 “(a) IN GENERAL.—For purposes of section 38, the
 21 amount of the low sulphur diesel fuel production credit
 22 determined under this section with respect to any facility
 23 of a small business refiner is an amount equal to 5 cents
 24 for each gallon of low-sulfur diesel fuel produced during

1 the taxable year by such small business refiner at such
2 facility.

3 “(b) MAXIMUM CREDIT.—

4 “(1) IN GENERAL.—The aggregate credit deter-
5 mined under subsection (a) for any taxable year with
6 respect to any facility shall not exceed—

7 “(A) 25 percent of the qualified capital
8 costs incurred by the small business refiner
9 with respect to such facility, reduced by

10 “(B) the aggregate credits determined
11 under this section for all prior taxable years
12 with respect to such facility.

13 “(2) REDUCED PERCENTAGE.—In the case of a
14 small business refiner with average daily domestic
15 refinery runs for the 1-year period ending on March
16 31, 2003, in excess of 155,000 barrels, the number
17 of percentage points described in paragraph (1) shall
18 be reduced (not below zero) by the product of such
19 number (before the application of this paragraph)
20 and the ratio of such excess to 50,000 barrels.

21 “(c) DEFINITIONS.—For purposes of this section—

22 “(1) SMALL BUSINESS REFINER.—The term
23 ‘small business refiner’ means, with respect to any
24 taxable year, a refiner of crude oil with respect to
25 which not more than 1,500 persons are engaged in

1 the refinery operations of the business on any day
2 during such taxable year and whose average daily
3 domestic refinery run for the 1-year period ending
4 on March 31, 2003, did not exceed 205,000 barrels.

5 “(2) QUALIFIED CAPITAL COSTS.—The term
6 ‘qualified capital costs’ means, with respect to any
7 facility, those costs paid or incurred during the ap-
8 plicable period for compliance with the applicable
9 EPA regulations with respect to such facility, includ-
10 ing expenditures for the construction of new process
11 operation units or the dismantling and reconstruc-
12 tion of existing process units to be used in the pro-
13 duction of low-sulfur diesel fuel, associated adjacent
14 or offsite equipment (including tankage, catalyst,
15 and power supply), engineering, construction period
16 interest, and sitework.

17 “(3) APPLICABLE EPA REGULATIONS.—The
18 term ‘applicable EPA regulations’ means the High-
19 way Diesel Fuel Sulfur Control Requirements of the
20 Environmental Protection Agency.

21 “(4) APPLICABLE PERIOD.—The term ‘applica-
22 ble period’ means, with respect to any facility, the
23 period beginning on April 1, 2003, and ending with
24 the date which is 1 year after the date on which the

1 taxpayer must comply with the applicable EPA regu-
2 lations with respect to such facility.

3 “(5) LOW-SULFUR DIESEL FUEL.—The term
4 ‘low-sulfur diesel fuel’ means diesel fuel with a sul-
5 fur content of 15 parts per million or less.

6 “(d) REDUCTION IN BASIS.—For purposes of this
7 subtitle, if a credit is determined under this section with
8 respect to any property by reason of qualified capital
9 costs, the basis of such property shall be reduced by the
10 amount of the credit so determined.

11 “(e) CERTIFICATION.—

12 “(1) REQUIRED.—Not later than the date
13 which is 30 months after the first day of the first
14 taxable year in which the low sulphur diesel fuel pro-
15 duction credit is allowed with respect to a facility,
16 the small business refiner must obtain certification
17 from the Secretary, in consultation with the Admin-
18 istrator of the Environmental Protection Agency,
19 that the taxpayer’s qualified capital costs with re-
20 spect to such facility will result in compliance with
21 the applicable EPA regulations.

22 “(2) CONTENTS OF APPLICATION.—An applica-
23 tion for certification shall include relevant informa-
24 tion regarding unit capacities and operating charac-
25 teristics sufficient for the Secretary, in consultation

1 with the Administrator of the Environmental Protec-
2 tion Agency, to determine that such qualified capital
3 costs are necessary for compliance with the applica-
4 ble EPA regulations.

5 “(3) REVIEW PERIOD.—Any application shall
6 be reviewed and notice of certification, if applicable,
7 shall be made within 60 days of receipt of such ap-
8 plication.

9 “(4) STATUTE OF LIMITATIONS.—With respect
10 to the credit allowed under this section—

11 “(A) the statutory period for the assess-
12 ment of any deficiency attributable to such
13 credit shall not expire before the end of the 3-
14 year period ending on the date that the review
15 period described in paragraph (3) ends, and

16 “(B) such deficiency may be assessed be-
17 fore the expiration of such 3-year period not-
18 withstanding the provisions of any other law or
19 rule of law which would otherwise prevent such
20 assessment.

21 “(f) CONTROLLED GROUPS.—For purposes of this
22 section, all persons treated as a single employer under sub-
23 section (b), (c), (m), or (o) of section 414 shall be treated
24 as 1 taxpayer.”.

1 (b) CREDIT MADE PART OF GENERAL BUSINESS

2 CREDIT.—Subsection (b) of section 38 (relating to general
3 business credit) is amended by striking “plus” at the end
4 of paragraph (15), by striking the period at the end of
5 paragraph (16) and inserting “, plus”, and by adding at
6 the end the following new paragraph:

7 “(17) in the case of a small business refiner,
8 the low sulphur diesel fuel production credit deter-
9 mined under section 45H(a).”.

10 (c) DENIAL OF DOUBLE BENEFIT.—Section 280C
11 (relating to certain expenses for which credits are allow-
12 able) is amended by adding after subsection (d) the fol-
13 lowing new subsection:

14 “(e) LOW SULPHUR DIESEL FUEL PRODUCTION
15 CREDIT.—No deduction shall be allowed for that portion
16 of the expenses otherwise allowable as a deduction for the
17 taxable year which is equal to the amount of the credit
18 determined for the taxable year under section 45H(a).”.

19 (d) BASIS ADJUSTMENT.—Section 1016(a) (relating
20 to adjustments to basis) is amended by striking “and” at
21 the end of paragraph (30), by striking the period at the
22 end of paragraph (31) and inserting “, and”, and by add-
23 ing at the end the following new paragraph:

1 “(32) in the case of a facility with respect to
 2 which a credit was allowed under section 45H, to
 3 the extent provided in section 45H(d).”.

4 (e) CLERICAL AMENDMENT.—The table of sections
 5 for subpart D of part IV of subchapter A of chapter 1
 6 is amended by adding at the end the following new item:

“Sec. 45H. Credit for production of low sulphur diesel fuel.”.

7 (f) EFFECTIVE DATE.—The amendments made by
 8 this section shall apply to expenses paid or incurred after
 9 March 31, 2003, in taxable years ending after such date.

10 **SEC. 206. DETERMINATION OF SMALL REFINER EXCEPTION**
 11 **TO OIL DEPLETION DEDUCTION.**

12 (a) IN GENERAL.—Paragraph (4) of section 613A(d)
 13 (relating to certain refiners excluded) is amended to read
 14 as follows:

15 “(4) CERTAIN REFINERS EXCLUDED.—If the
 16 taxpayer or a related person engages in the refining
 17 of crude oil, subsection (c) shall not apply to the
 18 taxpayer for a taxable year if the average daily refin-
 19 ery runs of the taxpayer and the related person for
 20 the taxable year exceed 75,000 barrels. For purposes
 21 of this paragraph, the average daily refinery runs for
 22 any taxable year shall be determined by dividing the
 23 aggregate refinery runs for the taxable year by the
 24 number of days in the taxable year.”.

1 (b) EFFECTIVE DATE.—The amendment made by
 2 this section shall apply to taxable years beginning after
 3 December 31, 2003.

4 **SEC. 207. SALES OR DISPOSITIONS TO IMPLEMENT FED-**
 5 **ERAL ENERGY REGULATORY COMMISSION**
 6 **OR STATE ELECTRIC RESTRUCTURING POL-**
 7 **ICY.**

8 (a) IN GENERAL.—Section 451 (relating to general
 9 rule for taxable year of inclusion) is amended by adding
 10 at the end the following new subsection:

11 “(i) SPECIAL RULE FOR SALES OR DISPOSITIONS TO
 12 IMPLEMENT FEDERAL ENERGY REGULATORY COMMIS-
 13 SION OR STATE ELECTRIC RESTRUCTURING POLICY.—

14 “(1) IN GENERAL.—In the case of any quali-
 15 fying electric transmission transaction to which the
 16 taxpayer elects the application of this section, quali-
 17 fied gain from such transaction shall be recog-
 18 nized—

19 “(A) in the taxable year which includes the
 20 date of such transaction to the extent the
 21 amount realized from such transaction ex-
 22 ceeds—

23 “(i) the cost of exempt utility property
 24 which is purchased by the taxpayer during

1 the 4-year period beginning on such date,
2 reduced (but not below zero) by

3 “(ii) any portion of such cost pre-
4 viously taken into account under this sub-
5 section, and

6 “(B) ratably over the 8-taxable year period
7 beginning with the taxable year which includes
8 the date of such transaction, in the case of any
9 such gain not recognized under subparagraph
10 (A).

11 “(2) QUALIFIED GAIN.—For purposes of this
12 subsection, the term ‘qualified gain’ means, with re-
13 spect to any qualifying electric transmission trans-
14 action in any taxable year—

15 “(A) any ordinary income derived from
16 such transaction which would be required to be
17 recognized under section 1245 or 1250 for such
18 taxable year (determined without regard to this
19 subsection), and

20 “(B) any income derived from such trans-
21 action in excess of the amount described in sub-
22 paragraph (A) which is required to be included
23 in gross income for such taxable year (deter-
24 mined without regard to this subsection).

1 “(3) QUALIFYING ELECTRIC TRANSMISSION
2 TRANSACTION.—For purposes of this subsection, the
3 term ‘qualifying electric transmission transaction’
4 means any sale or other disposition before January
5 1, 2007, of—

6 “(A) property used in the trade or business
7 of providing electric transmission services, or

8 “(B) any stock or partnership interest in a
9 corporation or partnership, as the case may be,
10 whose principal trade or business consists of
11 providing electric transmission services,

12 but only if such sale or disposition is to an inde-
13 pendent transmission company.

14 “(4) INDEPENDENT TRANSMISSION COM-
15 PANY.—For purposes of this subsection, the term
16 ‘independent transmission company’ means—

17 “(A) an independent transmission provider
18 approved by the Federal Energy Regulatory
19 Commission,

20 “(B) a person—

21 “(i) who the Federal Energy Regu-
22 latory Commission determines in its au-
23 thorization of the transaction under section
24 203 of the Federal Power Act (16 U.S.C.
25 824b) or by declaratory order is not a

1 market participant within the meaning of
2 such Commission’s rules applicable to inde-
3 pendent transmission providers, and

4 “(ii) whose transmission facilities to
5 which the election under this subsection
6 applies are under the operational control of
7 a Federal Energy Regulatory Commission-
8 approved independent transmission pro-
9 vider before the close of the period speci-
10 fied in such authorization, but not later
11 than the close of the period applicable
12 under subsection (a)(2)(B) as extended
13 under paragraph (2), or

14 “(C) in the case of facilities subject to the
15 jurisdiction of the Public Utility Commission of
16 Texas—

17 “(i) a person which is approved by
18 that Commission as consistent with Texas
19 State law regarding an independent trans-
20 mission provider, or

21 “(ii) a political subdivision or affiliate
22 thereof whose transmission facilities are
23 under the operational control of a person
24 described in clause (i).

1 “(5) EXEMPT UTILITY PROPERTY.—For pur-
2 poses of this subsection—

3 “(A) IN GENERAL.—The term ‘exempt
4 utility property’ means property used in the
5 trade or business of—

6 “(i) generating, transmitting, distrib-
7 uting, or selling electricity, or

8 “(ii) producing, transmitting, distrib-
9 uting, or selling natural gas.

10 “(B) NONRECOGNITION OF GAIN BY REA-
11 SON OF ACQUISITION OF STOCK.—Acquisition of
12 control of a corporation shall be taken into ac-
13 count under this subsection with respect to a
14 qualifying electric transmission transaction only
15 if the principal trade or business of such cor-
16 poration is a trade or business referred to in
17 subparagraph (A).

18 “(6) SPECIAL RULE FOR CONSOLIDATED
19 GROUPS.—In the case of a corporation which is a
20 member of an affiliated group filing a consolidated
21 return, any exempt utility property purchased by an-
22 other member of such group shall be treated as pur-
23 chased by such corporation for purposes of applying
24 paragraph (1)(A).

1 “(7) TIME FOR ASSESSMENT OF DEFICI-
2 CIENCIES.—If the taxpayer has made the election
3 under paragraph (1) and any gain is recognized by
4 such taxpayer as provided in paragraph (1)(B),
5 then—

6 “(A) the statutory period for the assess-
7 ment of any deficiency, for any taxable year in
8 which any part of the gain on the transaction
9 is realized, attributable to such gain shall not
10 expire prior to the expiration of 3 years from
11 the date the Secretary is notified by the tax-
12 payer (in such manner as the Secretary may by
13 regulations prescribe) of the purchase of exempt
14 utility property described in paragraph (1)(A)(i)
15 or of an intention not to purchase such prop-
16 erty, and

17 “(B) such deficiency may be assessed be-
18 fore the expiration of such 3-year period not-
19 withstanding any law or rule of law which
20 would otherwise prevent such assessment.

21 “(8) PURCHASE.—For purposes of this sub-
22 section, the taxpayer shall be considered to have
23 purchased any property if the unadjusted basis of
24 such property is its cost within the meaning of sec-
25 tion 1012.

1 “(9) ELECTION.—An election under paragraph
 2 (1) shall be made at such time and in such manner
 3 as the Secretary may require and, once made, shall
 4 be irrevocable.”.

5 (b) EFFECTIVE DATE.—The amendments made by
 6 this section shall apply to transactions occurring after the
 7 date of the enactment of this Act.

8 **SEC. 208. MODIFICATIONS TO SPECIAL RULES FOR NU-**
 9 **CLEAR DECOMMISSIONING COSTS.**

10 (a) REPEAL OF LIMITATION ON DEPOSITS INTO
 11 FUND BASED ON COST OF SERVICE; CONTRIBUTIONS
 12 AFTER FUNDING PERIOD.—Subsection (b) of section
 13 468A is amended to read as follows:

14 “(b) LIMITATION ON AMOUNTS PAID INTO FUND.—

15 “(1) IN GENERAL.—The amount which a tax-
 16 payer may pay into the Fund for any taxable year
 17 shall not exceed the ruling amount applicable to
 18 such taxable year.

19 “(2) CONTRIBUTIONS AFTER FUNDING PE-
 20 RIOD.—Notwithstanding any other provision of this
 21 section, a taxpayer may pay into the Fund in any
 22 taxable year after the last taxable year to which the
 23 ruling amount applies. Payments may not be made
 24 under the preceding sentence to the extent such pay-
 25 ments would cause the assets of the Fund to exceed

1 the nuclear decommissioning costs allocable to the
 2 taxpayer's current or former interest in the nuclear
 3 power plant to which the Fund relates. The limita-
 4 tion under the preceding sentence shall be deter-
 5 mined by taking into account a reasonable rate of
 6 inflation for the nuclear decommissioning costs and
 7 a reasonable after-tax rate of return on the assets
 8 of the Fund until such assets are anticipated to be
 9 expended.”.

10 (b) CLARIFICATION OF TREATMENT OF FUND
 11 TRANSFERS.—Subsection (e) of section 468A is amended
 12 by adding at the end the following new paragraph:

13 “(8) TREATMENT OF FUND TRANSFERS.—If, in
 14 connection with the transfer of the taxpayer's inter-
 15 est in a nuclear power plant, the taxpayer transfers
 16 the Fund with respect to such power plant to the
 17 transferee of such interest and the transferee elects
 18 to continue the application of this section to such
 19 Fund—

20 “(A) the transfer of such Fund shall not
 21 cause such Fund to be disqualified from the ap-
 22 plication of this section, and

23 “(B) no amount shall be treated as distrib-
 24 uted from such Fund, or be includible in gross
 25 income, by reason of such transfer.”.

1 (c) TREATMENT OF CERTAIN DECOMMISSIONING
2 COSTS.—

3 (1) IN GENERAL.—Section 468A is amended by
4 redesignating subsections (f) and (g) as subsections
5 (g) and (h), respectively, and by inserting after sub-
6 section (e) the following new subsection:

7 “(f) TRANSFERS INTO QUALIFIED FUNDS.—

8 “(1) IN GENERAL.—Notwithstanding subsection
9 (b), any taxpayer maintaining a Fund to which this
10 section applies with respect to a nuclear power plant
11 may transfer into such Fund up to an amount equal
12 to the excess of the total nuclear decommissioning
13 costs with respect to such nuclear power plant over
14 the portion of such costs taken into account in de-
15 termining the ruling amount in effect immediately
16 before the transfer.

17 “(2) DEDUCTION FOR AMOUNTS TRANS-
18 FERRED.—

19 “(A) IN GENERAL.—Except as provided in
20 subparagraph (C), the deduction allowed by
21 subsection (a) for any transfer permitted by
22 this subsection shall be allowed ratably over the
23 remaining estimated useful life (within the
24 meaning of subsection (d)(2)(A)) of the nuclear

1 power plant beginning with the taxable year
 2 during which the transfer is made.

3 “(B) DENIAL OF DEDUCTION FOR PRE-
 4 VIOUSLY DEDUCTED AMOUNTS.—No deduction
 5 shall be allowed for any transfer under this sub-
 6 section of an amount for which a deduction was
 7 previously allowed or a corresponding amount
 8 was not included in gross income. For purposes
 9 of the preceding sentence, a ratable portion of
 10 each transfer shall be treated as being from
 11 previously deducted or excluded amounts to the
 12 extent thereof.

13 “(C) TRANSFERS OF QUALIFIED FUNDS.—
 14 If—

15 “(i) any transfer permitted by this
 16 subsection is made to any Fund to which
 17 this section applies, and

18 “(ii) such Fund is transferred there-
 19 after,

20 any deduction under this subsection for taxable
 21 years ending after the date that such Fund is
 22 transferred shall be allowed to the transferor
 23 for the taxable year which includes such date.

24 “(D) SPECIAL RULES.—

1 “(i) GAIN OR LOSS NOT RECOG-
2 NIZED.—No gain or loss shall be recog-
3 nized on any transfer permitted by this
4 subsection.

5 “(ii) TRANSFERS OF APPRECIATED
6 PROPERTY.—If appreciated property is
7 transferred in a transfer permitted by this
8 subsection, the amount of the deduction
9 shall be the adjusted basis of such prop-
10 erty.

11 “(3) NEW RULING AMOUNT REQUIRED.—Para-
12 graph (1) shall not apply to any transfer unless the
13 taxpayer requests from the Secretary a new schedule
14 of ruling amounts in connection with such transfer.

15 “(4) NO BASIS IN QUALIFIED FUNDS.—Not-
16 withstanding any other provision of law, the tax-
17 payer’s basis in any Fund to which this section ap-
18 plies shall not be increased by reason of any transfer
19 permitted by this subsection.”.

20 (2) NEW RULING AMOUNT TO TAKE INTO AC-
21 COUNT TOTAL COSTS.—Subparagraph (A) of section
22 468A(d)(2) is amended to read as follows:

23 “(A) fund the total nuclear decommis-
24 sioning costs with respect to such power plant

1 over the estimated useful life of such power
2 plant, and”.

3 (d) EFFECTIVE DATE.—The amendments made by
4 this section shall apply to taxable years beginning after
5 December 31, 2003.

6 **SEC. 209. TREATMENT OF CERTAIN INCOME OF COOPERA-**
7 **TIVES.**

8 (a) INCOME FROM OPEN ACCESS AND NUCLEAR DE-
9 COMMISSIONING TRANSACTIONS.—

10 (1) IN GENERAL.—Subparagraph (C) of section
11 501(c)(12) is amended by striking “or” at the end
12 of clause (i), by striking clause (ii), and by adding
13 at the end the following new clauses:

14 “(ii) from any provision or sale of
15 transmission service or ancillary services if
16 such services are provided on a non-
17 discriminatory open access basis under an
18 independent transmission provider agree-
19 ment approved by FERC (other than in-
20 come received or accrued directly or indi-
21 rectly from a member),

22 “(iii) from any nuclear decommis-
23 sioning transaction, or

24 “(iv) from any asset exchange or con-
25 version transaction.”.

1 (2) DEFINITIONS AND SPECIAL RULES.—Para-
2 graph (12) of section 501(c) is amended by adding
3 at the end the following new subparagraphs:

4 “(E) For purposes of this subparagraph
5 and subparagraph (C)(ii), the term ‘FERC’
6 means the Federal Energy Regulatory Commis-
7 sion and references to such term shall be treat-
8 ed as including the Public Utility Commission
9 of Texas with respect to any ERCOT utility (as
10 defined in section 212(k)(2)(B) of the Federal
11 Power Act (16 U.S.C. 824k(k)(2)(B))).

12 “(F) For purposes of subparagraph
13 (C)(iii), the term ‘nuclear decommissioning
14 transaction’ means—

15 “(i) any transfer into a trust, fund, or
16 instrument established to pay any nuclear
17 decommissioning costs if the transfer is in
18 connection with the transfer of the mutual
19 or cooperative electric company’s interest
20 in a nuclear power plant or nuclear power
21 plant unit,

22 “(ii) any distribution from any trust,
23 fund, or instrument established to pay any
24 nuclear decommissioning costs, or

1 “(iii) any earnings from any trust,
2 fund, or instrument established to pay any
3 nuclear decommissioning costs.

4 “(G) For purposes of subparagraph
5 (C)(iv), the term ‘asset exchange or conversion
6 transaction’ means any voluntary exchange or
7 involuntary conversion of any property related
8 to generating, transmitting, distributing, or sell-
9 ing electric energy by a mutual or cooperative
10 electric company, the gain from which qualifies
11 for deferred recognition under section 1031 or
12 1033, but only if the replacement property ac-
13 quired by such company pursuant to such sec-
14 tion constitutes property which is used, or to be
15 used, for—

16 “(i) generating, transmitting, distrib-
17 uting, or selling electric energy, or

18 “(ii) producing, transmitting, distrib-
19 uting, or selling natural gas.”.

20 (b) TREATMENT OF INCOME FROM LOAD LOSS
21 TRANSACTIONS, ETC.—Paragraph (12) of section 501(c),
22 as amended by subsection (a)(2), is amended by adding
23 after subparagraph (G) the following new subparagraph:

24 “(H)(i) In the case of a mutual or coopera-
25 tive electric company described in this para-

graph or an organization described in section 1381(a)(2)(C), income received or accrued from a load loss transaction shall be treated as an amount collected from members for the sole purpose of meeting losses and expenses.

“(ii) For purposes of clause (i), the term ‘load loss transaction’ means any wholesale or retail sale of electric energy (other than to members) to the extent that the aggregate sales during the recovery period does not exceed the load loss mitigation sales limit for such period.

“(iii) For purposes of clause (ii), the load loss mitigation sales limit for the recovery period is the sum of the annual load losses for each year of such period.

“(iv) For purposes of clause (iii), a mutual or cooperative electric company’s annual load loss for each year of the recovery period is the amount (if any) by which—

“(I) the megawatt hours of electric energy sold during such year to members of such electric company are less than

“(II) the megawatt hours of electric energy sold during the base year to such members.

1 “(v) For purposes of clause (iv)(II), the
2 term ‘base year’ means—

3 “(I) the calendar year preceding the
4 start-up year, or

5 “(II) at the election of the electric
6 company, the second or third calendar
7 years preceding the start-up year.

8 “(vi) For purposes of this subparagraph,
9 the recovery period is the 7-year period begin-
10 ning with the start-up year.

11 “(vii) For purposes of this subparagraph,
12 the start-up year is the calendar year which in-
13 cludes the date of the enactment of this sub-
14 paragraph or, if later, at the election of the mu-
15 tual or cooperative electric company—

16 “(I) the first year that such electric
17 company offers nondiscriminatory open ac-
18 cess, or

19 “(II) the first year in which at least
20 10 percent of such electric company’s sales
21 are not to members of such electric com-
22 pany.

23 “(viii) A company shall not fail to be treat-
24 ed as a mutual or cooperative company for pur-
25 poses of this paragraph or as a corporation op-

1 erating on a cooperative basis for purposes of
 2 section 1381(a)(2)(C) by reason of the treat-
 3 ment under clause (i).

4 “(ix) For purposes of this subparagraph,
 5 in the case of a mutual or cooperative electric
 6 company, income received, or accrued, indirectly
 7 from a member shall be treated as an amount
 8 collected from members for the sole purpose of
 9 meeting losses and expenses.”.

10 (c) EXCEPTION FROM UNRELATED BUSINESS TAX-
 11 ABLE INCOME.—Subsection (b) of section 512 (relating to
 12 modifications) is amended by adding at the end the fol-
 13 lowing new paragraph:

14 “(18) TREATMENT OF MUTUAL OR COOPERA-
 15 TIVE ELECTRIC COMPANIES.—In the case of a mu-
 16 tual or cooperative electric company described in sec-
 17 tion 501(c)(12), there shall be excluded income
 18 which is treated as member income under subpara-
 19 graph (H) thereof.”.

20 (d) CROSS REFERENCE.—Section 1381 is amended
 21 by adding at the end the following new subsection:

1 “(c) CROSS REFERENCE.—

“For treatment of income from load loss transactions of organizations described in subsection (a)(2)(C), see section 501(c)(12)(H).”.

2 (e) EFFECTIVE DATE.—The amendments made by
3 this section shall apply to taxable years beginning after
4 the date of the enactment of this Act.

5 **SEC. 210. ARBITRAGE RULES NOT TO APPLY TO PREPAY-**
6 **MENTS FOR NATURAL GAS.**

7 (a) IN GENERAL.—Subsection (b) of section 148 (re-
8 lating to higher yielding investments) is amended by add-
9 ing at the end the following new paragraph:

10 “(4) SAFE HARBOR FOR PREPAID NATURAL
11 GAS.—

12 “(A) IN GENERAL.—The term ‘investment-
13 type property’ does not include a prepayment
14 under a qualified natural gas supply contract.

15 “(B) QUALIFIED NATURAL GAS SUPPLY
16 CONTRACT.—For purposes of this paragraph,
17 the term ‘qualified natural gas supply contract’
18 means any contract to acquire natural gas for
19 resale by a utility owned by a governmental
20 unit if the amount of gas permitted to be ac-
21 quired under the contract by the utility during
22 any year does not exceed the sum of—

23 “(i) the annual average amount dur-
24 ing the testing period of natural gas pur-

1 chased (other than for resale) by cus-
2 tomers of such utility who are located
3 within the service area of such utility, and

4 “(ii) the amount of natural gas to be
5 used to transport the prepaid natural gas
6 to the utility during such year.

7 “(C) NATURAL GAS USED TO GENERATE
8 ELECTRICITY.—Natural gas used to generate
9 electricity shall be taken into account in deter-
10 mining the average under subparagraph
11 (B)(i)—

12 “(i) only if the electricity is generated
13 by a utility owned by a governmental unit,
14 and

15 “(ii) only to the extent that the elec-
16 tricity is sold (other than for resale) to
17 customers of such utility who are located
18 within the service area of such utility.

19 “(D) ADJUSTMENTS FOR CHANGES IN
20 CUSTOMER BASE.—

21 “(i) NEW BUSINESS CUSTOMERS.—
22 If—

23 “(I) after the close of the testing
24 period and before the date of issuance
25 of the issue, the utility owned by a

1 governmental unit enters into a con-
2 tract to supply natural gas (other
3 than for resale) for a business use at
4 a property within the service area of
5 such utility, and

6 “(II) the utility did not supply
7 natural gas to such property during
8 the testing period or the ratable
9 amount of natural gas to be supplied
10 under the contract is significantly
11 greater than the ratable amount of
12 gas supplied to such property during
13 the testing period,

14 then a contract shall not fail to be treated
15 as a qualified natural gas supply contract
16 by reason of supplying the additional nat-
17 ural gas under the contract referred to in
18 subclause (I).

19 “(ii) LOST CUSTOMERS.—The average
20 under subparagraph (B)(i) shall not exceed
21 the annual amount of natural gas reason-
22 ably expected to be purchased (other than
23 for resale) by persons who are located
24 within the service area of such utility and

1 who, as of the date of issuance of the
2 issue, are customers of such utility.

3 “(E) RULING REQUESTS.—The Secretary
4 may increase the average under subparagraph
5 (B)(i) for any period if the utility owned by the
6 governmental unit establishes to the satisfaction
7 of the Secretary that, based on objective evi-
8 dence of growth in natural gas consumption or
9 population, such average would otherwise be in-
10 sufficient for such period.

11 “(F) ADJUSTMENT FOR NATURAL GAS
12 OTHERWISE ON HAND.—

13 “(i) IN GENERAL.—The amount oth-
14 erwise permitted to be acquired under the
15 contract for any period shall be reduced
16 by—

17 “(I) the applicable share of nat-
18 ural gas held by the utility on the
19 date of issuance of the issue, and

20 “(II) the natural gas (not taken
21 into account under subclause (I))
22 which the utility has a right to ac-
23 quire during such period (determined
24 as of the date of issuance of the
25 issue).

1 “(ii) APPLICABLE SHARE.—For pur-
 2 poses of the clause (i), the term ‘applicable
 3 share’ means, with respect to any period,
 4 the natural gas allocable to such period if
 5 the gas were allocated ratably over the pe-
 6 riod to which the prepayment relates.

7 “(G) INTENTIONAL ACTS.—Subparagraph
 8 (A) shall cease to apply to any issue if the util-
 9 ity owned by the governmental unit engages in
 10 any intentional act to render the volume of nat-
 11 ural gas acquired by such prepayment to be in
 12 excess of the sum of—

13 “(i) the amount of natural gas needed
 14 (other than for resale) by customers of
 15 such utility who are located within the
 16 service area of such utility, and

17 “(ii) the amount of natural gas used
 18 to transport such natural gas to the utility.

19 “(H) TESTING PERIOD.—For purposes of
 20 this paragraph, the term ‘testing period’ means,
 21 with respect to an issue, the most recent 5 cal-
 22 endar years ending before the date of issuance
 23 of the issue.

1 “(I) SERVICE AREA.—For purposes of this
 2 paragraph, the service area of a utility owned
 3 by a governmental unit shall be comprised of—

4 “(i) any area throughout which such
 5 utility provided at all times during the
 6 testing period—

7 “(I) in the case of a natural gas
 8 utility, natural gas transmission or
 9 distribution services, and

10 “(II) in the case of an electric
 11 utility, electricity distribution services,

12 “(ii) any area within a county contig-
 13 uous to the area described in clause (i) in
 14 which retail customers of such utility are
 15 located if such area is not also served by
 16 another utility providing natural gas or
 17 electricity services, as the case may be, and

18 “(iii) any area recognized as the serv-
 19 ice area of such utility under State or Fed-
 20 eral law.”.

21 (b) PRIVATE LOAN FINANCING TEST NOT TO APPLY
 22 TO PREPAYMENTS FOR NATURAL GAS.—Paragraph (2) of
 23 section 141(c) (providing exceptions to the private loan fi-
 24 nancing test) is amended by striking “or” at the end of
 25 subparagraph (A), by striking the period at the end of

1 subparagraph (B) and inserting “, or”, and by adding at
 2 the end the following new subparagraph:

3 “(C) is a qualified natural gas supply con-
 4 tract (as defined in section 148(b)(4)).”.

5 (c) EFFECTIVE DATE.—The amendment made by
 6 this section shall apply to obligations issued after the date
 7 of the enactment of this Act.

8 **SEC. 211. PREPAYMENT OF PREMIUM LIABILITY FOR COAL**
 9 **INDUSTRY HEALTH BENEFITS.**

10 (a) IN GENERAL.—Section 9704 (relating to liability
 11 of assigned operators) is amended by adding at the end
 12 the following new subsection:

13 “(j) PREPAYMENT OF PREMIUM LIABILITY.—

14 “(1) IN GENERAL.—If—

15 “(A) any assigned operator who is a mem-
 16 ber of a controlled group of corporations (with-
 17 in the meaning of section 52(a)) makes a pay-
 18 ment meeting the requirements of paragraph
 19 (2) to the Combined Fund, and

20 “(B) the common parent of such group—

21 “(i) is jointly and severally liable for
 22 any premium which would (but for this
 23 subsection) be required to be paid by such
 24 operator, and

1 “(ii) provides security which meets the
 2 requirements of paragraph (3),
 3 then no person (other than such common parent)
 4 shall be liable for any premium for which such oper-
 5 ator would otherwise be liable.

6 “(2) REQUIREMENTS.—A payment meets the
 7 requirements of this paragraph if—

8 “(A) the amount of the payment is not less
 9 than the present value of the total premium li-
 10 ability of the assigned operator for its assignees
 11 under this chapter with respect to the Com-
 12 bined Fund (as determined by the operator’s
 13 enrolled actuary, as defined in section
 14 7701(a)(35)), using actuarial methods and as-
 15 sumptions each of which is reasonable and
 16 which are reasonable in the aggregate, as deter-
 17 mined by such enrolled actuary,

18 “(B) a signed actuarial report is filed with
 19 the Secretary of Labor by such enrolled actuary
 20 containing—

21 “(i) the date of the actuarial valuation
 22 applicable to the report, and

23 “(ii) a statement by the enrolled actu-
 24 ary signing the report that to the best of
 25 the actuary’s knowledge the report is com-

1 plete and accurate and that in the actu-
2 ary's opinion the actuarial assumptions
3 used are in the aggregate reasonably re-
4 lated to the experience of the operator and
5 to reasonable expectations, and

6 “(C) a description of the security described
7 in paragraph (3) is filed with the Secretary of
8 Labor by the common parent, and

9 “(D) 30 calendar days have elapsed after
10 the report required by subparagraph (B), and
11 the description required by subparagraph (C),
12 are filed with the Secretary of Labor, and the
13 Secretary of Labor has not notified the as-
14 signed operator in writing that the require-
15 ments of this paragraph have not been satisfied.

16 “(3) SECURITY.—Security meets the require-
17 ments of this paragraph if—

18 “(A) the security (in the form of a bond,
19 letter of credit, or cash escrow) is provided to
20 the trustees of the 1992 UMWA Benefit Plan,
21 solely for the purpose of paying premiums for
22 beneficiaries described in section 9712(b)(2)(B),
23 equal in amount to one year's liability of the as-
24 signed operator under section 9711, determined

1 by using the average cost of such operator's li-
 2 ability during its prior 3 calendar years; and

3 “(B) the security will remain in place for
 4 5 years.

5 “(4) USE OF PREPAYMENT.—Any payment to
 6 which this subsection applies (and earnings thereon)
 7 shall be used exclusively to pay premiums which
 8 would (but for this subsection) be required to be
 9 paid by the assigned operator making such pay-
 10 ment.”

11 (b) EFFECTIVE DATE.—The amendment made by
 12 this section shall take effect on the date of the enactment
 13 of this Act.

14 **TITLE III—PRODUCTION**

15 **SEC. 301. OIL AND GAS FROM MARGINAL WELLS.**

16 (a) IN GENERAL.—Subpart D of part IV of sub-
 17 chapter A of chapter 1 (relating to business credits) is
 18 amended by adding at the end the following:

19 **“SEC. 45I. CREDIT FOR PRODUCING OIL AND GAS FROM** 20 **MARGINAL WELLS.**

21 “(a) GENERAL RULE.—For purposes of section 38,
 22 the marginal well production credit for any taxable year
 23 is an amount equal to the product of—

24 “(1) the credit amount, and

1 “(2) the qualified credit oil production and the
2 qualified natural gas production which is attrib-
3 utable to the taxpayer.

4 “(b) CREDIT AMOUNT.—For purposes of this sec-
5 tion—

6 “(1) IN GENERAL.—The credit amount is—

7 “(A) \$3 per barrel of qualified crude oil
8 production, and

9 “(B) 50 cents per 1,000 cubic feet of
10 qualified natural gas production.

11 “(2) REDUCTION AS OIL AND GAS PRICES IN-
12 CREASE.—

13 “(A) IN GENERAL.—The \$3 and 50 cents
14 amounts under paragraph (1) shall each be re-
15 duced (but not below zero) by an amount which
16 bears the same ratio to such amount (deter-
17 mined without regard to this paragraph) as—

18 “(i) the excess (if any) of the applica-
19 ble reference price over \$15 (\$1.67 for
20 qualified natural gas production), bears to

21 “(ii) \$3 (\$0.33 for qualified natural
22 gas production).

23 The applicable reference price for a taxable
24 year is the reference price of the calendar year

1 preceding the calendar year in which the tax-
2 able year begins.

3 “(B) INFLATION ADJUSTMENT.—In the
4 case of any taxable year beginning in a calendar
5 year after 2003, each of the dollar amounts
6 contained in subparagraph (A) shall be in-
7 creased to an amount equal to such dollar
8 amount multiplied by the inflation adjustment
9 factor for such calendar year (determined under
10 section 43(b)(3)(B) by substituting ‘2002’ for
11 ‘1990’).

12 “(C) REFERENCE PRICE.—For purposes of
13 this paragraph, the term ‘reference price’
14 means, with respect to any calendar year—

15 “(i) in the case of qualified crude oil
16 production, the reference price determined
17 under section 29(d)(2)(C), and

18 “(ii) in the case of qualified natural
19 gas production, the Secretary’s estimate of
20 the annual average wellhead price per
21 1,000 cubic feet for all domestic natural
22 gas.

23 “(c) QUALIFIED CRUDE OIL AND NATURAL GAS
24 PRODUCTION.—For purposes of this section—

1 “(1) IN GENERAL.—The terms ‘qualified crude
2 oil production’ and ‘qualified natural gas production’
3 mean domestic crude oil or natural gas which is pro-
4 duced from a qualified marginal well.

5 “(2) LIMITATION ON AMOUNT OF PRODUCTION
6 WHICH MAY QUALIFY.—

7 “(A) IN GENERAL.—Crude oil or natural
8 gas produced during any taxable year from any
9 well shall not be treated or qualified crude oil
10 production or qualified natural gas production
11 to the extent production from the well during
12 the taxable year exceeds 1,095 barrels or barrel
13 equivalents.

14 “(B) PROPORTIONATE REDUCTIONS.—

15 “(i) SHORT TAXABLE YEARS.—In the
16 case of a short taxable year, the limitations
17 under this paragraph shall be proportion-
18 ately reduced to reflect the ratio which the
19 number of days in such taxable year bears
20 to 365.

21 “(ii) WELLS NOT IN PRODUCTION EN-
22 TIRE YEAR.—In the case of a well which is
23 not capable of production during each day
24 of a taxable year, the limitations under
25 this paragraph applicable to the well shall

1 be proportionately reduced to reflect the
 2 ratio which the number of days of produc-
 3 tion bears to the total number of days in
 4 the taxable year.

5 “(3) DEFINITIONS.—

6 “(A) QUALIFIED MARGINAL WELL.—The
 7 term ‘qualified marginal well’ means a domestic
 8 well—

9 “(i) the production from which during
 10 the taxable year is treated as marginal
 11 production under section 613A(c)(6), or

12 “(ii) which, during the taxable year—

13 “(I) has average daily production
 14 of not more than 25 barrel equiva-
 15 lents, and

16 “(II) produces water at a rate
 17 not less than 95 percent of total well
 18 effluent.

19 “(B) CRUDE OIL, ETC.—The terms ‘crude
 20 oil’, ‘natural gas’, ‘domestic’, and ‘barrel’ have
 21 the meanings given such terms by section
 22 613A(e).

23 “(C) BARREL EQUIVALENT.—The term
 24 ‘barrel equivalent’ means, with respect to nat-

1 ural gas, a conversion ratio of 6,000 cubic
2 feet of natural gas to 1 barrel of crude oil.

3 “(d) OTHER RULES.—

4 “(1) PRODUCTION ATTRIBUTABLE TO THE TAX-
5 PAYER.—In the case of a qualified marginal well in
6 which there is more than one owner of operating in-
7 terests in the well and the crude oil or natural gas
8 production exceeds the limitation under subsection
9 (c)(2), qualifying crude oil production or qualifying
10 natural gas production attributable to the taxpayer
11 shall be determined on the basis of the ratio which
12 taxpayer’s revenue interest in the production bears
13 to the aggregate of the revenue interests of all oper-
14 ating interest owners in the production.

15 “(2) OPERATING INTEREST REQUIRED.—Any
16 credit under this section may be claimed only on
17 production which is attributable to the holder of an
18 operating interest.

19 “(3) PRODUCTION FROM NONCONVENTIONAL
20 SOURCES EXCLUDED.—In the case of production
21 from a qualified marginal well which is eligible for
22 the credit allowed under section 29 for the taxable
23 year, no credit shall be allowable under this section
24 unless the taxpayer elects not to claim the credit
25 under section 29 with respect to the well.”.

1 (b) CREDIT TREATED AS BUSINESS CREDIT.—Sec-
 2 tion 38(b) is amended by striking “plus” at the end of
 3 paragraph (16), by striking the period at the end of para-
 4 graph (17) and inserting “, plus”, and by adding at the
 5 end the following:

6 “(18) the marginal oil and gas well production
 7 credit determined under section 45I(a).”.

8 (c) CARRYBACK.—Subsection (a) of section 39 (relat-
 9 ing to carryback and carryforward of unused credits gen-
 10 erally) is amended by adding at the end the following:

11 “(3) 10-YEAR CARRYBACK FOR MARGINAL OIL
 12 AND GAS WELL PRODUCTION CREDIT.—In the case
 13 of the marginal oil and gas well production credit—

14 “(A) this section shall be applied sepa-
 15 rately from the business credit (other than the
 16 marginal oil and gas well production credit),

17 “(B) paragraph (1) shall be applied by
 18 substituting ‘10 taxable years’ for ‘1 taxable
 19 years’ in subparagraph (A) thereof, and

20 “(C) paragraph (2) shall be applied—

21 “(i) by substituting ‘31 taxable years’
 22 for ‘21 taxable years’ in subparagraph (A)
 23 thereof, and

1 “(ii) by substituting ‘30 taxable years’
 2 for ‘20 taxable years’ in subparagraph (A)
 3 thereof.”.

4 (d) COORDINATION WITH SECTION 29.—Section
 5 29(a) is amended by striking “There” and inserting “At
 6 the election of the taxpayer, there”.

7 (e) CLERICAL AMENDMENT.—The table of sections
 8 for subpart D of part IV of subchapter A of chapter 1
 9 is amended by adding at the end the following:

 “Sec. 45L. Credit for producing oil and gas from marginal wells.”.

10 (f) EFFECTIVE DATE.—The amendments made by
 11 this section shall apply to production in taxable years be-
 12 ginning after December 31, 2003.

13 **SEC. 302. TEMPORARY SUSPENSION OF LIMITATION BASED**
 14 **ON 65 PERCENT OF TAXABLE INCOME AND**
 15 **EXTENSION OF SUSPENSION OF TAXABLE IN-**
 16 **COME LIMIT WITH RESPECT TO MARGINAL**
 17 **PRODUCTION.**

18 (a) LIMITATION BASED ON 65 PERCENT OF TAX-
 19 ABLE INCOME.—Subsection (d) of section 613A (relating
 20 to limitation on percentage depletion in case of oil and
 21 gas wells) is amended by adding at the end the following
 22 new paragraph:

23 “(6) TEMPORARY SUSPENSION OF TAXABLE IN-
 24 COME LIMIT.—Paragraph (1) shall not apply to tax-
 25 able years beginning after December 31, 2003, and

1 before January 1, 2007, including with respect to
2 amounts carried under the second sentence of para-
3 graph (1) to such taxable years.”.

4 (b) EXTENSION OF SUSPENSION OF TAXABLE IN-
5 COME LIMIT WITH RESPECT TO MARGINAL PRODUC-
6 TION.—Subparagraph (H) of section 613A(c)(6) (relating
7 to temporary suspension of taxable income limit with re-
8 spect to marginal production) is amended by striking
9 “2004” and inserting “2007”.

10 (c) EFFECTIVE DATE.—The amendment made by
11 subsection (a) shall apply to taxable years beginning after
12 December 31, 2003.

13 **SEC. 303. AMORTIZATION OF DELAY RENTAL PAYMENTS.**

14 (a) IN GENERAL.—Section 167 (relating to deprecia-
15 tion) is amended by redesignating subsection (h) as sub-
16 section (i) and by inserting after subsection (g) the fol-
17 lowing new subsection:

18 “(h) AMORTIZATION OF DELAY RENTAL PAYMENTS
19 FOR DOMESTIC OIL AND GAS WELLS.—

20 “(1) IN GENERAL.—Any delay rental payment
21 paid or incurred in connection with the development
22 of oil or gas wells within the United States (as de-
23 fined in section 638) shall be allowed as a deduction
24 ratably over the 24-month period beginning on the
25 date that such payment was paid or incurred.

1 “(2) HALF-YEAR CONVENTION.—For purposes
2 of paragraph (1), any payment paid or incurred dur-
3 ing the taxable year shall be treated as paid or in-
4 curred on the mid-point of such taxable year.

5 “(3) EXCLUSIVE METHOD.—Except as provided
6 in this subsection, no depreciation or amortization
7 deduction shall be allowed with respect to such pay-
8 ments.

9 “(4) TREATMENT UPON ABANDONMENT.—If
10 any property to which a delay rental payment relates
11 is retired or abandoned during the 2-year period de-
12 scribed in paragraph (1), no deduction shall be al-
13 lowed on account of such retirement or abandon-
14 ment and the amortization deduction under this sub-
15 section shall continue with respect to such payment.

16 “(5) DELAY RENTAL PAYMENTS.—For purposes
17 of this subsection, the term ‘delay rental payment’
18 means an amount paid for the privilege of deferring
19 development of an oil or gas well under an oil or gas
20 lease.”.

21 (b) EFFECTIVE DATE.—The amendment made by
22 this section shall apply to amounts paid or incurred in tax-
23 able years beginning after December 31, 2003.

1 **SEC. 304. AMORTIZATION OF GEOLOGICAL AND GEO-**
2 **PHYSICAL EXPENDITURES.**

3 (a) IN GENERAL.—Section 167 (relating to deprecia-
4 tion) is amended by redesignating subsection (i) as sub-
5 section (j) and by inserting after subsection (h) the fol-
6 lowing new subsection:

7 “(i) AMORTIZATION OF GEOLOGICAL AND GEO-
8 PHYSICAL EXPENDITURES.—

9 “(1) IN GENERAL.—Any geological and geo-
10 physical expenses paid or incurred in connection
11 with the exploration for, or development of, oil or
12 gas within the United States (as defined in section
13 638) shall be allowed as a deduction ratably over the
14 24-month period beginning on the date that such ex-
15 pense was paid or incurred.

16 “(2) SPECIAL RULES.—For purposes of this
17 subsection, rules similar to the rules of paragraphs
18 (2), (3), and (4) of subsection (h) shall apply.”.

19 (b) EFFECTIVE DATE.—The amendment made by
20 this section shall apply to costs paid or incurred in taxable
21 years beginning after December 31, 2003.

22 **SEC. 305. EXTENSION AND MODIFICATION OF CREDIT FOR**
23 **PRODUCING FUEL FROM A NONCONVEN-**
24 **TIONAL SOURCE.**

25 (a) IN GENERAL.—Section 29 is amended by adding
26 at the end the following new subsection:

1 “(h) EXTENSION FOR OTHER FACILITIES.—

2 “(1) EXTENSION FOR OIL AND CERTAIN GAS.—

3 In the case of a well for producing qualified fuels de-
4 scribed in subparagraph (A) or (B)(i) of subsection
5 (c)(1)—

6 “(A) APPLICATION OF CREDIT FOR NEW
7 WELLS.—Notwithstanding subsection (f), this
8 section shall apply with respect to such fuels—

9 “(i) which are produced from a well
10 drilled after the date of the enactment of
11 this subsection and before January 1,
12 2007, and

13 “(ii) which are sold not later than the
14 close of the 4-year period beginning on the
15 date that such well is drilled, or, if earlier,
16 January 1, 2010.

17 “(B) EXTENSION OF CREDIT FOR OLD
18 WELLS.—Subsection (f)(2) shall be applied by
19 substituting ‘2007’ for ‘2003’ with respect to
20 wells described in subsection (f)(1)(A) with re-
21 spect to such fuels.

22 “(2) EXTENSION FOR FACILITIES PRODUCING
23 QUALIFIED FUEL FROM LANDFILL GAS.—

24 “(A) IN GENERAL.—In the case of a facil-
25 ity for producing qualified fuel from landfill gas

1 which was placed in service after June 30,
2 1998, and before January 1, 2007, this section
3 shall apply to fuel produced at such facility dur-
4 ing the 5-year period beginning on the later
5 of—

6 “(i) the date such facility was placed
7 in service, or

8 “(ii) the date of the enactment of this
9 subsection.

10 “(B) REDUCTION OF CREDIT FOR CERTAIN
11 LANDFILL FACILITIES.—In the case of a facility
12 to which paragraph (1) applies and which is
13 subject to the 1996 New Source Performance
14 Standards/Emissions Guidelines of the Environ-
15 mental Protection Agency, subsection (a)(1)
16 shall be applied by substituting ‘\$2’ for ‘\$3’.

17 “(3) SPECIAL RULES.—In determining the
18 amount of credit allowable under this section solely
19 by reason of this subsection—

20 “(A) DAILY LIMIT.—The amount of quali-
21 fied fuels sold during any taxable year which
22 may be taken into account by reason of this
23 subsection with respect to any project shall not
24 exceed an average barrel-of-oil equivalent of
25 200,000 cubic feet of natural gas per day. Days

1 before the date the project is placed in service
 2 shall not be taken into account in determining
 3 such average.

4 “(B) EXTENSION PERIOD TO COMMENCE
 5 WITH UNADJUSTED CREDIT AMOUNT.—In the
 6 case of fuels sold during 2003, the dollar
 7 amount applicable under subsection (a)(1) shall
 8 be \$3 (without regard to subsection (b)(2)). In
 9 the case of fuels sold after 2003, subparagraph
 10 (B) of subsection (d)(2) shall be applied by sub-
 11 stituting ‘2003’ for ‘1979’.”.

12 (b) EFFECTIVE DATE.—The amendment made by
 13 this section shall apply to fuel sold after the date of the
 14 enactment of this Act.

15 **SEC. 306. BUSINESS RELATED ENERGY CREDITS ALLOWED**
 16 **AGAINST REGULAR AND MINIMUM TAX.**

17 (a) IN GENERAL.—Subsection (c) of section 38 (re-
 18 lating to limitation based on amount of tax) is amended
 19 by redesignating paragraph (4) as paragraph (5) and by
 20 inserting after paragraph (3) the following new paragraph:

21 “(4) SPECIAL RULES FOR SPECIFIED ENERGY
 22 CREDITS.—

23 “(A) IN GENERAL.—In the case of speci-
 24 fied energy credits—

1 “(i) this section and section 39 shall
 2 be applied separately with respect to such
 3 credits, and

4 “(ii) in applying paragraph (1) to
 5 such credits—

6 “(I) the tentative minimum tax
 7 shall be treated as being zero, and

8 “(II) the limitation under para-
 9 graph (1) (as modified by subclause
 10 (I)) shall be reduced by the credit al-
 11 lowed under subsection (a) for the
 12 taxable year (other than the specified
 13 energy credits).

14 “(B) SPECIFIED ENERGY CREDITS.—For
 15 purposes of this subsection, the term ‘specified
 16 energy credits’ means the credits determined
 17 under sections 45G, 45H, and 45I.”.

18 (b) CONFORMING AMENDMENTS.—Paragraphs
 19 (2)(A)(ii)(II) and (3)(A)(ii)(II) of section 38(c) are each
 20 amended by inserting “or the specified energy credits”
 21 after “employee credit”.

22 (c) EFFECTIVE DATE.—The amendments made by
 23 this section shall apply to taxable years ending after the
 24 date of the enactment of this Act.

1 **SEC. 307. TEMPORARY REPEAL OF ALTERNATIVE MINIMUM**
2 **TAX PREFERENCE FOR INTANGIBLE DRILL-**
3 **ING COSTS.**

4 (a) IN GENERAL.—Clause (ii) of section 57(a)(2)(E)
5 is amended by adding at the end the following new sen-
6 tence: “The preceding sentence shall not apply to taxable
7 years beginning after December 31, 2003, and before Jan-
8 uary 1, 2006.”.

9 (b) EFFECTIVE DATE.—The amendment made by
10 this section shall apply to taxable years beginning after
11 December 31, 2003.

12 **SEC. 308. ALLOWANCE OF ENHANCED RECOVERY CREDIT**
13 **AGAINST THE ALTERNATIVE MINIMUM TAX.**

14 (a) IN GENERAL.—Subparagraph (B) of section
15 38(c)(4), as amended by section 306, is amended by add-
16 ing at the end the following new sentence: “For taxable
17 years beginning after December 31, 2003, and before Jan-
18 uary 1, 2006, such term includes the credit determined
19 under section 43.”.

20 (b) EFFECTIVE DATE.—The amendment made by
21 this section shall apply to taxable years beginning after
22 December 31, 2003.

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